

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2766

Introduced by
Representatives Mason, Campbell CH, McClure, Sinema, Senators Aguirre,
Blendu, O'Halleran: Representatives Brown, Chabin, Clark, Hershberger,
McComish, Nelson, Reagan, Stump, Tobin, Senator Flake

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6.4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 9-468 AND 9-469; AMENDING TITLE 11, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-323 AND 11-324; AMENDING SECTIONS 11-876, 15-213, 15-213.01, 15-342 AND 15-349, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 9, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-910.02; AMENDING TITLE 30, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 7; AMENDING SECTIONS 34-201 AND 34-451, ARIZONA REVISED STATUTES; REPEALING SECTION 34-453, ARIZONA REVISED STATUTES; AMENDING SECTIONS 34-454 AND 34-455, ARIZONA REVISED STATUTES; REPEALING SECTION 34-456, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1511; AMENDING SECTION 41-2121, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 15, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-2122.02 AND 41-2122.03; AMENDING SECTIONS 41-3953, 42-11054, 44-1375.02, 44-1551 AND 44-1554, ARIZONA REVISED STATUTES; REPEALING SECTION 49-409, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-447.01 AND 49-447.02; RELATING TO ENERGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6.4, Arizona Revised Statutes,
3 is amended by adding sections 9-468 and 9-469, to read:

4 9-468. Solar construction permits; standards; maximum fees

5 A. MUNICIPALITIES SHALL ADOPT THE FOLLOWING STANDARDS FOR ISSUING
6 PERMITS FOR THE USE OF CERTAIN SOLAR ENERGY DEVICES:

7 1. FOR SINGLE-FAMILY RESIDENTIAL CONSTRUCTION WITH SOLAR PHOTOVOLTAIC
8 SYSTEMS THAT ARE INTENDED TO CONNECT TO A UTILITY SYSTEM, THE FOLLOWING
9 APPLY:

10 (a) A STRUCTURAL ANALYSIS SHALL NOT BE REQUIRED FOR THOSE SYSTEMS THAT
11 ARE INSTALLED PURSUANT TO A UTILITY PROGRAM.

12 (b) THE LOCATION OF THE PHOTOVOLTAIC SYSTEM INSTALLATION SHALL BE
13 INDICATED ON THE CONSTRUCTION PLANS, INCLUDING THE ROOF PLAN AND ELEVATION.

14 (c) PHOTOVOLTAIC PANEL MOUNTING DETAILS SHALL BE INCLUDED IN THE
15 INSTALLATION PLANS.

16 (d) THE ELECTRICAL DIAGRAMS SHALL INCLUDE ONE-LINE AND THREE-LINE
17 DIAGRAMS.

18 (e) FOR DIRECT CURRENT TO ALTERNATING CURRENT CONVERSIONS, THE CUT
19 SHEET AND LISTINGS FOR INVERTERS SHALL BE INCLUDED IN THE PLANS.

20 (f) CONSTRUCTION PLAN NOTES SHALL REQUIRE THAT THE INSTALLATION BE
21 COMPLETED IN COMPLIANCE WITH STANDARD 690 OF A NATIONAL ELECTRICAL CODE AND
22 THAT WARNING SIGNS SHALL COMPLY WITH STANDARDS 690-17, 690-64(B)(5) AND
23 705-10 OF A NATIONAL ELECTRICAL CODE.

24 2. FOR SINGLE FAMILY RESIDENTIAL SOLAR WATER HEATING SYSTEMS, THE
25 FOLLOWING APPLY:

26 (a) A STRUCTURAL ANALYSIS SHALL NOT BE REQUIRED FOR THOSE SYSTEMS THAT
27 COMPLY WITH A SOLAR RATING AND CERTIFICATION CORPORATION OPERATING GUIDELINE
28 300 OR IN SYSTEMS THAT ARE INSTALLED PURSUANT TO A UTILITY PROGRAM.

29 (b) THE LOCATION OF THE SOLAR PANEL SYSTEM SHALL BE INDICATED ON THE
30 CONSTRUCTION PLANS, INCLUDING THE ROOF PLAN AND ELEVATION, AND SHALL INCLUDE
31 MOUNTING DETAILS FOR PANEL INSTALLATION.

32 (c) CONSTRUCTION PLAN NOTES SHALL INCLUDE A REQUIREMENT THAT SOLAR
33 WATER HEATING EQUIPMENT BE INSTALLED IN COMPLIANCE WITH APPLICABLE PLUMBING
34 CODES AND AS PRESCRIBED BY A SOLAR RATING AND CERTIFICATION CORPORATION AND
35 ANY GUIDELINES ADOPTED BY THIS STATE.

36 (d) PERMIT FEES AND THE PERMIT PROCESS FOR INSTALLATION OF SOLAR WATER
37 HEATING SYSTEMS SHALL BE SUBSTANTIALLY SIMILAR TO THOSE FOR A DOMESTIC WATER
38 HEATER REPLACEMENT THAT IS NOT A SOLAR ENERGY DEVICE.

39 B. THE MUNICIPALITY SHALL NOT CHARGE MORE THAN THE FOLLOWING FEES FOR
40 BUILDING PERMITS FOR SOLAR ENERGY SYSTEM CONSTRUCTION:

41 1. TWO HUNDRED DOLLARS FOR RESIDENTIAL GRID TIED PHOTOVOLTAIC SYSTEMS.

42 2. ONE THOUSAND DOLLARS FOR NONRESIDENTIAL GRID TIED PHOTOVOLTAIC
43 SYSTEMS.

3. ONE HUNDRED DOLLARS FOR RESIDENTIAL AND NONRESIDENTIAL SOLAR WATER HEATING SYSTEMS.

9-469. Energy efficiency construction goals; report; definition

A. IT IS THE POLICY OF THIS STATE TO PROMOTE THE CONSTRUCTION OF ENERGY EFFICIENT BUILDINGS IN THIS STATE. THE INTERNATIONAL ENERGY CONSERVATION CODE IS RECOGNIZED AS THE VOLUNTARY STATE ENERGY CODE. IN ORDER TO ACCOMPLISH THE CONSTRUCTION OF ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS, THE FOLLOWING STATEWIDE GOALS ARE ESTABLISHED:

YEAR	PERCENTAGE BY WHICH NEW BUILDINGS ON AVERAGE MUST BE MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE
2012	15%
2016	30%
2020	50%

B. AS A MEANS OF ASSESSING THE PROGRESS TOWARD ACHIEVING THESE GOALS:

1. EACH BUILDER THAT CONSTRUCTS FIFTY OR MORE RESIDENTIAL BUILDINGS IN THIS STATE IN ANY YEAR, AND EACH BUILDER THAT CONSTRUCTS COMMERCIAL BUILDINGS TOTALING MORE THAN FIFTY THOUSAND SQUARE FEET OF GROSS BUILDING SPACE IN THIS STATE IN ANY YEAR, SHALL REPORT TO THE MUNICIPALITY AS PART OF THE MUNICIPAL BUILDING PERMIT APPLICATION AND APPROVAL PROCESS WHETHER THE BUILDING WILL MEET THE REQUIREMENTS OF AN ENERGY EFFICIENT RESIDENTIAL OR COMMERCIAL BUILDING AND SHALL REPORT THE ENERGY RATING SYSTEM VALUE FOR THE BUILDING IF THE BUILDING RECEIVES AN ENERGY RATING.

2. ON OR BEFORE FEBRUARY 1 OF EACH YEAR THROUGH 2021, EACH CITY AND TOWN SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE:

(a) THE TOTAL NUMBER OF BUILDING PERMITS ISSUED IN THE CITY OR TOWN IN THE PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR ALL NEW COMMERCIAL BUILDINGS.

(b) THE NUMBER AND PERCENTAGE OF THOSE PERMITS THAT WERE ISSUED FOR NEW ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY RATING SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE PERFORMED.

C. THIS SECTION SHALL BE ENFORCED PURSUANT TO SECTION 9-500.21.

D. FOR THE PURPOSES OF THIS SECTION, "ENERGY EFFICIENT BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE.

1 Sec. 2. Title 11, chapter 2, article 9, Arizona Revised Statutes, is
2 amended by adding sections 11-323 and 11-324, to read:

3 11-323. Solar construction permits; standards; maximum fees

4 A. COUNTIES SHALL ADOPT THE FOLLOWING STANDARDS FOR ISSUING PERMITS
5 FOR THE USE OF CERTAIN SOLAR ENERGY DEVICES:

6 1. FOR SINGLE-FAMILY RESIDENTIAL CONSTRUCTION WITH SOLAR PHOTOVOLTAIC
7 SYSTEMS THAT ARE INTENDED TO CONNECT TO A UTILITY SYSTEM, THE FOLLOWING
8 APPLY:

9 (a) A STRUCTURAL ANALYSIS SHALL NOT BE REQUIRED FOR THOSE SYSTEMS THAT
10 ARE INSTALLED PURSUANT TO A UTILITY PROGRAM.

11 (b) THE LOCATION OF THE PHOTOVOLTAIC SYSTEM INSTALLATION SHALL BE
12 INDICATED ON THE CONSTRUCTION PLANS, INCLUDING THE ROOF PLAN AND ELEVATION.

13 (c) PHOTOVOLTAIC PANEL MOUNTING DETAILS SHALL BE INCLUDED IN THE
14 INSTALLATION PLANS.

15 (d) THE ELECTRICAL DIAGRAMS SHALL INCLUDE ONE-LINE AND THREE-LINE
16 DIAGRAMS.

17 (e) FOR DIRECT CURRENT TO ALTERNATING CURRENT CONVERSIONS, THE CUT
18 SHEET AND LISTINGS FOR INVERTERS SHALL BE INCLUDED IN THE PLANS.

19 (f) CONSTRUCTION PLAN NOTES SHALL REQUIRE THAT THE INSTALLATION BE
20 COMPLETED IN COMPLIANCE WITH STANDARD 690 OF A NATIONAL ELECTRICAL CODE AND
21 THAT WARNING SIGNS SHALL COMPLY WITH STANDARDS 690-17, 690-64(B)(5) AND
22 705-10 OF A NATIONAL ELECTRICAL CODE.

23 2. FOR SINGLE FAMILY RESIDENTIAL SOLAR WATER HEATING SYSTEMS, THE
24 FOLLOWING APPLY:

25 (a) A STRUCTURAL ANALYSIS SHALL NOT BE REQUIRED FOR THOSE SYSTEMS THAT
26 COMPLY WITH A SOLAR RATING AND CERTIFICATION CORPORATION OPERATING GUIDELINE
27 300 OR IN SYSTEMS THAT ARE INSTALLED PURSUANT TO A UTILITY PROGRAM.

28 (b) THE LOCATION OF THE SOLAR PANEL SYSTEM SHALL BE INDICATED ON THE
29 CONSTRUCTION PLANS, INCLUDING THE ROOF PLAN AND ELEVATION, AND SHALL INCLUDE
30 MOUNTING DETAILS FOR PANEL INSTALLATION.

31 (c) CONSTRUCTION PLAN NOTES SHALL INCLUDE A REQUIREMENT THAT SOLAR
32 WATER HEATING EQUIPMENT BE INSTALLED IN COMPLIANCE WITH APPLICABLE PLUMBING
33 CODES AND AS PRESCRIBED BY A SOLAR RATING AND CERTIFICATION CORPORATION AND
34 ANY GUIDELINES ADOPTED BY THIS STATE.

35 (d) PERMIT FEES AND THE PERMIT PROCESS FOR INSTALLATION OF SOLAR WATER
36 HEATING SYSTEMS SHALL BE SUBSTANTIALLY SIMILAR TO THOSE FOR A DOMESTIC WATER
37 HEATER REPLACEMENT THAT IS NOT A SOLAR ENERGY DEVICE.

38 B. COUNTIES SHALL NOT CHARGE MORE THAN THE FOLLOWING FEES FOR BUILDING
39 PERMITS FOR SOLAR ENERGY SYSTEM CONSTRUCTION:

40 1. TWO HUNDRED DOLLARS FOR RESIDENTIAL GRID TIED PHOTOVOLTAIC SYSTEMS.

41 2. ONE THOUSAND DOLLARS FOR NONRESIDENTIAL GRID TIED PHOTOVOLTAIC
42 SYSTEMS.

43 3. ONE HUNDRED DOLLARS FOR RESIDENTIAL AND NONRESIDENTIAL SOLAR HOT
44 WATER SYSTEMS.

11-324. Energy efficiency construction goals: report:
definition

A. IT IS THE POLICY OF THIS STATE TO PROMOTE THE CONSTRUCTION OF ENERGY EFFICIENT BUILDINGS. THE INTERNATIONAL ENERGY CONSERVATION CODE IS RECOGNIZED AS THE VOLUNTARY STATE ENERGY CODE. IN ORDER TO ACCOMPLISH THE CONSTRUCTION OF ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS, THE FOLLOWING STATEWIDE GOALS ARE ESTABLISHED:

YEAR	PERCENTAGE BY WHICH NEW BUILDINGS ON AVERAGE MUST BE MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE
2012	15%
2016	30%
2020	50%

B. AS A MEANS OF ASSESSING THE PROGRESS TOWARD ACHIEVING THESE GOALS:

1. EACH BUILDER THAT CONSTRUCTS FIFTY OR MORE RESIDENTIAL BUILDINGS IN THIS STATE IN ANY YEAR, AND EACH BUILDER THAT CONSTRUCTS COMMERCIAL BUILDINGS TOTALING MORE THAN FIFTY THOUSAND SQUARE FEET OF GROSS BUILDING SPACE IN THIS STATE IN ANY YEAR, SHALL REPORT TO THE COUNTY AS PART OF THE BUILDING PERMIT APPLICATION AND APPROVAL PROCESS WHETHER THE BUILDING WILL MEET THE REQUIREMENTS OF AN ENERGY EFFICIENT RESIDENTIAL OR COMMERCIAL BUILDING AND SHALL REPORT THE ENERGY RATING SYSTEM VALUE FOR THE BUILDING IF THE BUILDING RECEIVES AN ENERGY RATING.

2. ON OR BEFORE FEBRUARY 1 OF EACH YEAR THROUGH 2021, EACH COUNTY SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE:

(a) THE TOTAL NUMBER OF BUILDING PERMITS ISSUED IN THE COUNTY IN THE PRECEDING CALENDAR YEAR FOR ALL NEW RESIDENTIAL BUILDINGS AND FOR ALL NEW COMMERCIAL BUILDINGS.

(b) THE NUMBER AND PERCENTAGE OF THOSE PERMITS THAT WERE ISSUED FOR NEW ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS AND THE ENERGY RATING SYSTEM VALUES FOR NEW BUILDINGS FOR WHICH ENERGY RATINGS WERE PERFORMED.

C. THIS SECTION SHALL BE ENFORCED PURSUANT TO SECTION 11-808.

D. FOR THE PURPOSES OF THIS SECTION. "ENERGY EFFICIENT BUILDING" MEANS NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED THE ENERGY EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE.

1 Sec. 3. Section 11-876, Arizona Revised Statutes, is amended to read:

2 11-876. Engine idling restrictions; exemptions; applicability;
 3 civil penalty; definition

4 A. By July 1, 2002, a county that contains any portion of area A as
 5 defined in section ~~49-451~~ 49-541 shall adopt, implement and enforce
 6 ordinances that place limits on the maximum idling time for engines that
 7 propel heavy-duty diesel vehicles with a gross vehicle weight rating of more
 8 than fourteen thousand pounds. The ordinances shall at least include
 9 exemptions for:

10 1. Certain types of vehicles, such as police, fire and other emergency
 11 vehicles.

12 2. Certain types of situations such as traffic delays or the need for
 13 a driver to sleep in the vehicle.

14 3. Certain types of equipment operations, such as refrigeration of
 15 cargo.

16 ~~B. A county with a population of less than one million two hundred~~
 17 ~~thousand persons shall adopt, implement and enforce the ordinances required~~
 18 ~~by this section only for those portions of the county that are located in~~
 19 ~~area A.~~

20 B. ON OR BEFORE JANUARY 1, 2010, A COUNTY WITH A POPULATION OF ONE
 21 HUNDRED THOUSAND OR MORE PERSONS SHALL ADOPT, IMPLEMENT AND ENFORCE
 22 ORDINANCES THAT PLACE A LIMIT OF FIVE MINUTES IN ANY SIXTY-MINUTE PERIOD FOR
 23 THE MAXIMUM IDLING TIME FOR ENGINES THAT PROPEL HEAVY-DUTY DIESEL VEHICLES
 24 WITH A GROSS VEHICLE WEIGHT RATING OF MORE THAN FOURTEEN THOUSAND POUNDS.
 25 THE ORDINANCES SHALL AT LEAST INCLUDE EXEMPTIONS FOR:

26 1. VEHICLES THAT IDLE WHILE STOPPED FOR STREET OR HIGHWAY TRAFFIC, AN
 27 OFFICIAL TRAFFIC CONTROL DEVICE OR AT THE DIRECTION OF A LAW ENFORCEMENT
 28 OFFICER.

29 2. VEHICLES THAT IDLE WHILE OPERATING DEFROSTERS, HEATERS OR AIR
 30 CONDITIONERS OR WHILE INSTALLING EQUIPMENT THAT IS OPERATED SOLELY TO PREVENT
 31 A HEALTH OR SAFETY EMERGENCY AND NOT AS A PART OF A REST PERIOD.

32 3. A POLICE, FIRE AMBULANCE, PUBLIC SAFETY, MILITARY OR OTHER
 33 EMERGENCY OR LAW ENFORCEMENT VEHICLE OR ANY VEHICLE THAT IS BEING USED IN AN
 34 EMERGENCY CAPACITY AND THAT IDLES WHILE IN AN EMERGENCY OR TRAINING MODE AND
 35 NOT FOR THE CONVENIENCE OF THE VEHICLE OPERATOR.

36 4. A PRIMARY PROPULSION ENGINE THAT IS IDLING FOR MAINTENANCE,
 37 SERVICING, REPAIRING OR DIAGNOSTIC PURPOSES IF IDLING IS REQUIRED FOR THAT
 38 ACTIVITY.

39 5. A PRIMARY PROPULSION ENGINE THAT IS IDLING AS NECESSARY FOR POSING
 40 WORK-RELATED MECHANICAL OR ELECTRICAL OPERATIONS OTHER THAN PROPULSION,
 41 INCLUDING MIXING OR PROCESSING CARGO OR FOR TRUCK REFRIGERATION. THIS
 42 EXEMPTION DOES NOT APPLY TO IDLING FOR CABIN COMFORT OR TO OPERATING
 43 NONESSENTIAL ONBOARD EQUIPMENT.

1 6. VEHICLES THAT IDLE PURSUANT TO A STATE OR FEDERAL INSPECTION THAT
2 IS INTENDED TO VERIFY THAT ALL EQUIPMENT IS IN GOOD WORKING ORDER IF IDLING
3 IS REQUIRED AS A PART OF THE INSPECTION.

4 7. ARMORED VEHICLES THAT IDLE WHILE A PERSON REMAINS INSIDE THE
5 VEHICLE TO GUARD THE CONTENTS OR WHILE THE VEHICLE IS BEING LOADED OR
6 UNLOADED.

7 C. ON OR BEFORE JANUARY 1, 2010, A COUNTY WITH A POPULATION OF ONE
8 HUNDRED THOUSAND OR MORE PERSONS SHALL ADOPT, IMPLEMENT AND ENFORCE
9 ORDINANCES THAT REQUIRE AN OWNER OR OPERATOR OF A TRUCK STOP OR A TRUCKING
10 DISTRIBUTION CENTER TO POST AND MAINTAIN PERMANENT SIGNS THAT ARE AT LEAST
11 TWELVE INCHES BY EIGHTEEN INCHES IN SIZE AND THAT SPECIFY THE MAXIMUM IDLE
12 TIME, AN INFORMATION HOTLINE, THE RELEVANT STATUTORY REFERENCE AND THE
13 MAXIMUM CIVIL PENALTY AMOUNT FOR VIOLATIONS OF IDLING RESTRICTIONS.

14 D. IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE
15 DEPARTMENT OF PUBLIC SAFETY SHALL ESTABLISH AND OPERATE AN INFORMATION
16 HOTLINE THAT PROVIDES DRIVERS WITH INFORMATION ON THE PROVISIONS OF THIS
17 SECTION.

18 ~~C.~~ E. Any other county may adopt, implement and enforce ordinances
19 that comply with this section.

20 ~~D.~~ F. A driver who violates an ordinance adopted pursuant to this
21 section is subject to:

22 1. The imposition of a civil penalty of one hundred dollars for the
23 first violation.

24 2. The imposition of a civil penalty of three hundred dollars for a
25 second or any subsequent violation.

26 ~~E.~~ G. Ordinances adopted pursuant to this section may be enforced by
27 a county control officer or any law enforcement officer who is authorized to
28 enforce traffic laws. For violations of ordinances adopted pursuant to this
29 section, an officer shall use a uniform civil ticket and complaint
30 substantially similar to a uniform traffic ticket and complaint prescribed by
31 the rules of procedure in civil traffic cases adopted by the supreme court.
32 The officer may issue citations to persons who violate an ordinance adopted
33 pursuant to this section.

34 ~~F.~~ H. In enforcing ordinances adopted pursuant to this section, a
35 county control officer or authorized law enforcement officer shall only issue
36 one citation per traffic stop or investigation of a driver whose vehicle
37 exceeds the maximum idling limits established pursuant to this section.

38 ~~G.~~ I. For the purposes of this section, "idling" means the operation
39 of an engine in the operating mode where the engine is not engaged in gear,
40 where the engine operates at a speed at the revolutions per minute specified
41 by the engine or vehicle manufacturer for when the accelerator is fully
42 released and there is no load on the engine.

1 Sec. 4. Section 15-213, Arizona Revised Statutes, is amended to read:

2 15-213. Procurement practices of school districts and charter
3 schools; definitions

4 A. The state board of education shall adopt rules prescribing
5 procurement practices for all school districts in this state as follows:

6 1. The state board shall submit to the auditor general proposed rules
7 consistent with the procurement practices prescribed in title 41, chapter 23,
8 modifying the provisions for public notice of invitation for bids, requests
9 for proposals and requests for qualifications to allow a governing board to
10 give public notice of the invitation for bids, requests for proposals and
11 requests for qualifications by publication in the official newspaper of the
12 county as defined in section 11-255, modifying the provisions relating to
13 disposal of materials to comply with section 15-342, paragraph 18, providing
14 for governing board delegation of procurement authority and modifying as
15 necessary other provisions which the state board determines are not
16 appropriate for school districts. The rules shall include provisions
17 specifying that school districts are not required to engage in competitive
18 bidding in order to make the decision to participate in programs pursuant to
19 section 15-382 and that a program authorized by section 15-382 is not
20 required to engage in competitive bidding for the services necessary to
21 administer the program or for purchase of insurance or reinsurance. The
22 rules for procurement of construction projects shall include provisions
23 specifying that surety bonds furnished as bid security and performance and
24 payment bonds shall be executed and furnished as required by title 34,
25 chapter 2 or 6, as applicable. The rules shall specify the total cost of a
26 procurement that is subject to invitations for bids, requests for proposals
27 and requests for clarification. The state board shall not exceed the
28 aggregate dollar amount limits for procurements prescribed in section
29 41-2535.

30 2. The state board of education shall adopt rules for procurements
31 involving construction not exceeding one hundred fifty thousand dollars which
32 shall be known as the simplified school construction procurement program. At
33 a minimum, the rules for a simplified construction procurement program shall
34 require that:

35 (a) A list be maintained by each county school superintendent of
36 persons who desire to receive solicitations to bid on construction projects
37 to which additions shall be permitted throughout the year.

38 (b) The list of persons be available for public inspection.

39 (c) A performance bond and a payment bond as required by this section
40 be provided for contracts for construction by contractors.

41 (d) All bids for construction be opened at a public opening and the
42 bids shall remain confidential until the public opening.

43 (e) All persons desiring to submit bids be treated equitably and the
44 information related to each project be available to all eligible persons.

(f) Competition for construction projects under the simplified school construction procurement program be encouraged to the maximum extent possible. At a minimum, a school district shall submit information on each project to all persons listed with the county school superintendent by any school district within that county.

(g) A provision, covenant, clause or understanding in, collateral to or affecting a construction contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against this state's public policy and is void and unenforceable.

3. IN LIEU OF THE PROCUREMENT RULES UNDER PARAGRAPH 2, THE STATE BOARD OF EDUCATION SHALL ADOPT RULES FOR A SIMPLIFIED SCHOOL CONSTRUCTION PROCUREMENT PROGRAM FOR ENERGY PERFORMANCE CONTRACTS NOT EXCEEDING FIVE HUNDRED THOUSAND DOLLARS TO PURCHASE ENERGY SAVING AND RENEWABLE ENERGY MEASURES.

~~3-~~ 4. On or before December 31, 2004, the state board of education shall adopt rules for the procurement of goods and information services by school districts and charter schools using electronic, ~~on-line~~ ONLINE bidding. The rules adopted by the state board shall include the use of reverse auctions and shall be consistent with the procurement practices prescribed in title 41, chapter 23, article 13, modifying as necessary those provisions and the rules adopted pursuant to that article that the state board determines are not appropriate for school districts and charter schools. Until the rules are adopted school districts and charter schools may procure goods and information services pursuant to title 41, chapter 23, article 13 using the rules adopted by the department of administration in implementing that article.

~~4-~~ 5. The auditor general shall review the proposed rules to determine whether the rules are consistent with the procurement practices prescribed in title 41, chapter 23 and any modifications are required to adapt the procedures for school districts.

~~5-~~ 6. If the auditor general approves the proposed rules, the auditor general shall notify the state board in writing and the state board shall adopt such rules.

~~6-~~ 7. If the auditor general objects to the proposed rules, the auditor general shall notify the state board of the objections in writing and the state board, in adopting the rules, shall conform the proposed rules to meet the objections of the auditor general or revise the proposed rules to which an objection has been made and submit the revisions to the auditor general for approval.

B. After the bids submitted in response to an invitation for bids are opened and the award is made or after the proposals or qualifications are submitted in response to a request for proposals or a request for qualifications and the award is made, the governing board shall make

1 available for public inspection all information, all bids, proposals and
2 qualifications submitted and all findings and other information considered in
3 determining whose bid conforms to the invitation for bids and will be the
4 most advantageous with respect to price, conformity to the specifications and
5 other factors or whose proposal or qualifications are to be selected for the
6 award. The invitation for bids, request for proposals or request for
7 qualifications shall include a notice that all information and bids,
8 proposals and qualifications submitted will be made available for public
9 inspection. The rules adopted by the state board shall prohibit the use in
10 connection with procurement of specifications in any way proprietary to one
11 supplier unless the specification includes all of the following:

12 1. A statement of the reasons why no other specification is
13 practicable.

14 2. A description of the essential characteristics of the specified
15 product.

16 3. A statement specifically permitting an acceptable alternative
17 product to be supplied.

18 C. No project or purchase may be divided or sequenced into separate
19 projects or purchases in order to avoid the limits prescribed by the state
20 board under subsection A of this section.

21 D. A contract for the procurement of construction or construction
22 services shall include a provision which provides for negotiations between
23 the school district and the contractor for the recovery of damages related to
24 expenses incurred by the contractor for a delay for which the school district
25 is responsible, which is unreasonable under the circumstances and which was
26 not within the contemplation of the parties to the contract. This subsection
27 shall not be construed to void any provision in the contract which requires
28 notice of delays, provides for arbitration or other procedure for settlement
29 or provides for liquidated damages.

30 E. The auditor general may conduct discretionary reviews,
31 investigations and audits of the financial and operational procurement
32 activities of school districts, nonexempt charter schools and school
33 purchasing cooperatives. The auditor general has final review and approval
34 authority over all school district, nonexempt charter school and school
35 purchasing cooperative audit contracts and any audit reports issued in
36 accordance with this section.

37 F. In addition to the requirements of sections 15-914 and 15-914.01,
38 school districts, nonexempt charter schools and school purchasing
39 cooperatives, in connection with any audit conducted by a certified public
40 accountant, shall contract for a systematic review of purchasing practices
41 using methodology consistent with sampling guidelines established by the
42 auditor general. The auditor general shall consider cost when establishing
43 guidelines pursuant to this subsection and to the extent possible shall
44 attempt to minimize the cost of the review. The purpose of the review is to
45 determine whether the school district, nonexempt charter school or school

1 purchasing cooperative is in compliance with the procurement laws and
2 applicable procurement rules of this state. A copy of the review shall be
3 submitted upon completion to the auditor general. The auditor general may
4 conduct discretionary reviews of school districts, nonexempt charter schools
5 and school purchasing cooperatives not required to contract for independent
6 audits.

7 G. The attorney general or county attorney has jurisdiction to enforce
8 this section. The attorney general or county attorney may seek relief for
9 any violation of this section through an appropriate civil or criminal action
10 in superior court including an action to enjoin a threatened or pending
11 violation of this section and including an action to enforce compliance with
12 any request for documents made by the auditor general pursuant to this
13 section.

14 H. The department of education shall enact policies and procedures for
15 the acceptance and disposition of complaints from the public regarding school
16 procurement practices and shall forward all school procurement complaints to
17 the attorney general.

18 I. The state board of education shall adopt, and the auditor general
19 shall review, rules authorizing school districts to procure construction
20 services by construction-manager-at-risk, design-build, qualified select
21 bidders list and job-order-contracting methods of project delivery. The
22 rules adopted shall require each school district that uses
23 construction-manager-at-risk, design-build, qualified select bidders list or
24 job-order-contracting to procure construction services to submit, on or
25 before January 15 of each year, a report to the secretary of state on the
26 benefits associated with the use of such procurement methods. The report
27 shall include the number of projects completed in the preceding calendar year
28 using that procurement method, the cost and description of each project and
29 an estimate of any cost savings or other benefits realized through the use of
30 that procurement method.

31 J. A school district or charter school may evaluate United States
32 general services administration contracts for materials and services. The
33 governing board or governing body may authorize purchases under a current
34 contract for materials or services without complying with the requirements of
35 the procurement rules adopted by the state board of education if the
36 governing board or governing body determines in writing that all of the
37 following apply:

38 1. The price for materials or services is equal to or less than the
39 contractor's current federal supply contract price with the general services
40 administration.

41 2. The contractor has indicated in writing that the contractor is
42 willing to extend the current federal supply contract pricing, terms and
43 conditions to the school district or charter school.

44 3. The purchase order adequately identifies the federal supply
45 contract on which the order is based.

1 4. The purchase contract is cost effective and is in the best
2 interests of the school district or charter school.

3 K. For the purposes of this section:

4 1. "Nonexempt charter school" means a charter school that is not
5 exempted from procurement laws pursuant to section 15-183, subsection E,
6 paragraph 6.

7 2. "School purchasing cooperative" means an entity engaged in
8 cooperative purchasing as defined in section 41-2631.

9 3. "Total cost" means the cost of all materials and services,
10 including the cost of labor performed by employees of the school district,
11 for all construction as provided in subsection A of this section.

12 Sec. 5. Section 15-213.01, Arizona Revised Statutes, is amended to
13 read:

14 15-213.01. Procurement practices; guaranteed energy cost
15 savings contracts; definitions

16 A. Notwithstanding section 15-213, subsection A, a school district may
17 contract for the procurement of a guaranteed energy cost savings contract
18 with a qualified provider through a competitive sealed proposal process as
19 provided by the procurement practices adopted by the state board of
20 education. To the extent the qualified provider subcontracts with
21 contractors who will be involved in any construction associated with the
22 guaranteed energy cost savings contract, the qualified provider must follow
23 ~~the provisions of~~ section 41-2533 in selecting these contractors.

24 B. A school district may enter into a guaranteed energy cost savings
25 contract with a qualified provider if it determines that the amount it would
26 spend on the energy cost savings measures recommended in the proposal would
27 not exceed the amount to be saved in energy and operational costs over the
28 expected life of the energy cost savings measures implemented or within
29 twenty-five years, whichever is shorter, after the date installation or
30 implementation is complete, if the recommendations in the proposal are
31 followed.

32 C. The school district shall use objective criteria in selecting the
33 qualified provider, including the cost of the contract, the energy and
34 operational cost savings, the net projected energy savings, the quality of
35 the technical approach, the quality of the project management plan, the
36 financial solvency of the qualified provider and the experience of the
37 qualified provider with projects of similar size and scope. The school
38 district shall set forth each criterion with its respective numerical
39 weighting in the request for proposal.

40 D. In selecting a contractor to perform any construction work related
41 to performing the guaranteed energy cost savings contract, the qualified
42 provider may develop and use a prequalification process for contractors
43 wishing to bid on this work. These prequalifications may require the
44 contractor to demonstrate that the contractor is adequately bonded to perform
45 the work and that the contractor has not failed to perform on a prior job.

1 The qualified provider may use performance specifications in soliciting bids
2 from contractors.

3 E. An in-depth feasibility study shall be performed by the selected
4 qualified provider in order to establish the exact scope of the guaranteed
5 energy cost savings contract, the fixed cost savings guarantee amount and the
6 methodology for determining actual savings. This report shall be reviewed
7 and approved by the school district prior to the actual installation of any
8 equipment. The qualified provider shall transmit a copy of the approved
9 in-depth feasibility study to the superintendent of public instruction AND
10 THE DEPARTMENT OF COMMERCE ENERGY OFFICE.

11 F. The guaranteed energy savings contract shall require that a
12 ~~qualified provider perform an energy audit of the facility or facilities one~~
13 ~~year after the energy cost savings measures are installed or implemented and~~
14 ~~every three years thereafter for the length of the contract. The qualified~~
15 ~~provider shall transmit a copy of the audit to the superintendent of public~~
16 ~~instruction. The qualified provider shall pay the cost of the audit.~~ in
17 determining whether the projected energy savings calculations have been met,
18 the energy or operational cost savings shall be computed by comparing the
19 energy baseline before installation or implementation of the energy cost
20 savings measures with the energy consumed and operational costs avoided after
21 installation or implementation of the energy cost savings measures. The
22 qualified provider and the school district may agree to make modifications to
23 the energy baseline only for any of the following:

- 24 1. Changes in utility rates.
25 2. Changes in the number of days in the utility billing cycle.
26 3. Changes in the square footage of the facility.
27 4. Changes in the operational schedule of the facility.
28 5. Changes in facility temperature.
29 6. Significant changes in the weather.
30 7. Significant changes in the amount of equipment or lighting utilized
31 in the facility.

32 G. The information to develop the energy baseline shall be derived
33 from actual energy measurements or shall be calculated from energy
34 measurements at the facility where energy cost savings measures are to be
35 installed or implemented. The measurements shall be taken in the year
36 preceding the installation or implementation of energy cost savings measures.

37 H. When submitting a proposal for the installation of equipment, the
38 qualified provider shall include information on the projected energy savings
39 associated with each proposed energy cost savings measure.

40 I. A school district, or two or more school districts, may enter into
41 an installment payment contract or lease-purchase agreement with a qualified
42 provider for the purchase and installation or implementation of energy cost
43 savings measures. The guaranteed energy cost savings contract may provide
44 for payments over a period of not more than the expected life of the energy
45 cost savings measures implemented or twenty-five years, whichever is shorter.

The contract shall provide that all payments, except obligations on termination of the contract before its expiration, shall be made over time.

J. The guaranteed energy cost savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings, or both, will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented or within twenty-five years, whichever is shorter. The qualified provider shall:

1. PREPARE A MEASUREMENT AND VERIFICATION REPORT ON AN ANNUAL BASIS IN ADDITION TO AN ANNUAL RECONCILIATION OF SAVINGS.

2. Reimburse the school district for any shortfall of guaranteed energy cost savings on an annual basis.

K. The school district may obtain any required financing as part of the original competitive sealed proposal process.

L. A qualified provider that is awarded the contract shall give a sufficient bond to the school district for its faithful performance of the equipment installment.

M. When selecting subcontractors to perform construction work, the qualified provider is required to make public information in the subcontractor's bids only if the qualified provider is awarded the guaranteed energy savings contract by the school district.

N. FOR ALL PROJECTS CARRIED OUT UNDER THIS SECTION, THE DISTRICT SHALL REPORT TO THE DEPARTMENT OF COMMERCE ENERGY OFFICE:

1. THE NAME OF THE PROJECT.

2. THE QUALIFIED PROVIDER.

3. THE TOTAL COST OF THE PROJECT.

4. THE EXPECTED ENERGY AND COST SAVINGS.

~~N.~~ O. This section does not apply to the construction of new buildings.

~~O.~~ P. For the purposes of this section:

1. "Construction" means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any school district real property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.

2. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.

3. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption or operating costs and may include one or more of the following:

(a) Insulating the building structure or systems in the building.

(b) Storm windows or doors, caulking or weather stripping, multi-glazed windows or door systems, additional glazing, reductions in glass

1 area, or other window and door system modifications that reduce energy
2 consumption.

3 (c) Automated or computerized energy control systems.

4 (d) Heating, ventilating or air conditioning system modifications or
5 replacements.

6 (e) Replacing or modifying lighting fixtures to increase the energy
7 efficiency of the lighting system without increasing the overall illumination
8 of a facility unless an increase in illumination is necessary to conform to
9 the applicable state or local building code for the lighting system after the
10 proposed modifications are made.

11 (f) Indoor air quality improvements to increase air quality that
12 conform to the applicable state or local building code requirements.

13 (g) Energy recovery systems.

14 (h) Installing a new or retrofitting an existing day lighting system.

15 (i) Any life safety measures that provide long-term operating cost
16 reductions and that comply with state and local codes.

17 (j) Implementing operation programs through education, training and
18 software that reduce the operating costs.

19 (k) **PROCUREMENT OF LOW-COST UTILITY SUPPLIES OF ALL TYPES, INCLUDING**
20 **ELECTRICITY, NATURAL GAS, PROPANE AND WATER.**

21 (l) **DEVICES THAT REDUCE WATER CONSUMPTION AND WATER COSTS OR THAT**
22 **REDUCE SEWER CHARGES.**

23 (m) **RAINWATER HARVESTING SYSTEMS.**

24 (n) **COMBINED HEAT AND POWER SYSTEMS.**

25 (o) **RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.**

26 (p) **SELF-GENERATION SYSTEMS.**

27 (q) **ANY ADDITIONAL BUILDING SYSTEMS AND INFRASTRUCTURE THAT PRODUCE**
28 **ENERGY, OR THAT PROVIDE UTILITY OR OPERATIONAL COST SAVINGS NOT SPECIFICALLY**
29 **MENTIONED IN THIS PARAGRAPH, IF THE IMPROVEMENTS MEET THE LIFE CYCLE COST**
30 **REQUIREMENT AND ENHANCE BUILDING SYSTEM PERFORMANCE OR OCCUPANT COMFORT AND**
31 **SAFETY.**

32 4. "Guaranteed energy cost savings contract" means a contract for
33 implementing one or more energy cost savings measures.

34 5. "LIFE CYCLE COST" MEANS THE SUM OF PRESENT VALUES OF INVESTMENT
35 COSTS, CAPITAL COSTS, INSTALLATION COSTS, ENERGY COSTS, OPERATING COSTS,
36 MAINTENANCE COSTS AND DISPOSAL COSTS OVER THE LIFE OF THE PROJECT, PRODUCT OR
37 MEASURE AS PROVIDED BY FEDERAL LIFE CYCLE COST RULES, REGULATIONS AND
38 CRITERIA CONTAINED IN THE UNITED STATES DEPARTMENT OF ENERGY FEDERAL ENERGY
39 MANAGEMENT PROGRAM "GUIDANCE ON LIFE-CYCLE COST ANALYSIS" REQUIRED BY
40 EXECUTIVE ORDER 13122, APRIL 2005.

41 ~~5.~~ 6. "Operational savings" means reductions in actual budget line
42 items currently being expended or savings realized from the implementation or
43 installation of energy cost savings measures.

44 ~~6.~~ 7. "Qualified provider" means a person or a business experienced
45 in designing, implementing or installing energy cost savings measures.

1 Sec. 6. Section 15-342, Arizona Revised Statutes, is amended to read:
2 15-342. Discretionary powers

3 The governing board may:

4 1. Expel pupils for misconduct.

5 2. Exclude from grades one through eight children under six years of
6 age.

7 3. Make such separation of groups of pupils as it deems advisable.

8 4. Maintain such special schools during vacation as deemed necessary
9 for the benefit of the pupils of the school district.

10 5. Permit a superintendent or principal or representatives of the
11 superintendent or principal to travel for a school purpose, as determined by
12 a majority vote of the board. The board may permit members and members-elect
13 of the board to travel within or without the school district for a school
14 purpose and receive reimbursement. Any expenditure for travel and
15 subsistence pursuant to this paragraph shall be as provided in title 38,
16 chapter 4, article 2. The designated post of duty referred to in section
17 38-621 shall be construed, for school district governing board members, to be
18 the member's actual place of residence, as opposed to the school district
19 office or the school district boundaries. Such expenditures shall be a
20 charge against the budgeted school district funds. The governing board of a
21 school district shall prescribe procedures and amounts for reimbursement of
22 lodging and subsistence expenses. Reimbursement amounts shall not exceed the
23 maximum amounts established pursuant to section 38-624, subsection C.

24 6. Construct or provide in rural districts housing facilities for
25 teachers and other school employees which the board determines are necessary
26 for the operation of the school.

27 7. Sell or lease to the state, a county, a city or a tribal government
28 agency, any school property required for a public purpose, provided the sale
29 or lease of the property will not affect the normal operations of a school
30 within the school district.

31 8. Annually budget and expend funds for membership in an association
32 of school districts within this state.

33 9. Enter into leases or lease-purchase agreements for school buildings
34 or grounds, or both, as lessor or as lessee, for periods of less than five
35 years subject to voter approval for construction of school buildings as
36 prescribed in section 15-341, subsection A, paragraph 8.

37 10. Subject to chapter 16 of this title, sell school sites or enter
38 into leases or lease-purchase agreements for school buildings and grounds, as
39 lessor or as lessee, for a period of five years or more, but not to exceed
40 ninety-nine years, if authorized by a vote of the school district electors in
41 an election called by the governing board as provided in section 15-491,
42 except that authorization by the school district electors in an election is
43 not required if one of the following requirements is met:

1 (a) The market value of the school property is less than fifty
2 thousand dollars OR, IN THE CASE OF PROPERTY PROCURED THROUGH AN ENERGY
3 PERFORMANCE CONTRACT, IS LESS THAN FIVE HUNDRED THOUSAND DOLLARS.

4 (b) The buildings and sites are completely funded with monies
5 distributed by the school facilities board.

6 (c) The transaction involves the sale of improved or unimproved
7 property pursuant to an agreement with the school facilities board in which
8 the school district agrees to sell the improved or unimproved property and
9 transfer the proceeds of the sale to the school facilities board in exchange
10 for monies from the school facilities board for the acquisition of a more
11 suitable school site. For a sale of property acquired by a school district
12 prior to July 9, 1998, a school district shall transfer to the school
13 facilities board that portion of the proceeds that equals the cost of the
14 acquisition of a more suitable school site. If there are any remaining
15 proceeds after the transfer of monies to the school facilities board, a
16 school district shall only use those remaining proceeds for future land
17 purchases approved by the school facilities board, or for capital
18 improvements not funded by the school facilities board for any existing or
19 future facility.

20 (d) The transaction involves the sale of improved or unimproved
21 property pursuant to a formally adopted plan and the school district uses the
22 proceeds of this sale to purchase other property that will be used for
23 similar purposes as the property that was originally sold, provided that the
24 sale proceeds of the improved or unimproved property are used within two
25 years after the date of the original sale to purchase the replacement
26 property. If the sale proceeds of the improved or unimproved property are
27 not used within two years after the date of the original sale to purchase
28 replacement property, the sale proceeds shall be used towards payment of any
29 outstanding bonded indebtedness. If any sale proceeds remain after paying
30 for outstanding bonded indebtedness, or if the district has no outstanding
31 bonded indebtedness, sale proceeds shall be used to reduce the district's
32 primary tax levy. A school district shall not use ~~the provisions of~~ this
33 subdivision unless all of the following conditions exist:

34 (i) The school district is the sole owner of the improved or
35 unimproved property that the school district intends to sell.

36 (ii) The school district did not purchase the improved or unimproved
37 property that the school district intends to sell with monies that were
38 distributed pursuant to chapter 16 of this title.

39 (iii) The transaction does not violate section 15-341, subsection G.

40 11. Review the decision of a teacher to promote a pupil to a grade or
41 retain a pupil in a grade in a common school or to pass or fail a pupil in a
42 course in high school. The pupil has the burden of proof to overturn the
43 decision of a teacher to promote, retain, pass or fail the pupil. In order
44 to sustain the burden of proof, the pupil shall demonstrate to the governing
45 board that the pupil has mastered the academic standards adopted by the state

1 board of education pursuant to sections 15-701 and 15-701.01. If the
2 governing board overturns the decision of a teacher pursuant to this
3 paragraph, the governing board shall adopt a written finding that the pupil
4 has mastered the academic standards. Notwithstanding title 38, chapter 3,
5 article 3.1, the governing board shall review the decision of a teacher to
6 promote a pupil to a grade or retain a pupil in a grade in a common school or
7 to pass or fail a pupil in a course in high school in executive session
8 unless a parent or legal guardian of the pupil or the pupil, if emancipated,
9 disagrees that the review should be conducted in executive session and then
10 the review shall be conducted in an open meeting. If the review is conducted
11 in executive session, the board shall notify the teacher of the date, time
12 and place of the review and shall allow the teacher to be present at the
13 review. If the teacher is not present at the review, the board shall consult
14 with the teacher before making its decision. Any request, including the
15 written request as provided in section 15-341, the written evidence presented
16 at the review and the written record of the review, including the decision of
17 the governing board to accept or reject the teacher's decision, shall be
18 retained by the governing board as part of its permanent records.

19 12. Provide transportation or site transportation loading and unloading
20 areas for any child or children if deemed for the best interest of the
21 district, whether within or without the district, county or state.

22 13. Enter into intergovernmental agreements and contracts with school
23 districts or other governing bodies as provided in section 11-952.

24 14. Include in the curricula which it prescribes for high schools in
25 the school district career and technical education, vocational education and
26 technology education programs and career and technical, vocational and
27 technology program improvement services for the high schools, subject to
28 approval by the state board of education. The governing board may contract
29 for the provision of career and technical, vocational and technology
30 education as provided in section 15-789.

31 15. Suspend a teacher or administrator from the teacher's or
32 administrator's duties without pay for a period of time of not to exceed ten
33 school days, if the board determines that suspension is warranted pursuant to
34 section 15-341, subsection A, paragraphs 23 and 24.

35 16. Dedicate school property within an incorporated city or town to
36 such city or town or within a county to that county for use as a public
37 right-of-way if both of the following apply:

38 (a) Pursuant to an ordinance adopted by such city, town or county,
39 there will be conferred upon the school district privileges and benefits
40 which may include benefits related to zoning.

41 (b) The dedication will not affect the normal operation of any school
42 within the district.

43 17. Enter into option agreements for the purchase of school sites.

18. Donate surplus or outdated learning materials to nonprofit community organizations where the governing board determines that the anticipated cost of selling the learning materials equals or exceeds the estimated market value of the materials.

19. Prescribe policies for the assessment of reasonable fees for students to use district-provided parking facilities. The fees are to be applied by the district solely against costs incurred in operating or securing the parking facilities. Any policy adopted by the governing board pursuant to this paragraph shall include a fee waiver provision in appropriate cases of need or economic hardship.

20. Establish alternative educational programs that are consistent with the laws of this state to educate pupils, including pupils who have been reassigned pursuant to section 15-841, subsection E or F.

21. Require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained.

22. Require students to wear uniforms.

23. Exchange unimproved property or improved property, including school sites, where the governing board determines that the improved property is unnecessary for the continued operation of the school district without requesting authorization by a vote of the school district electors if the governing board determines that the exchange is necessary to protect the health, safety or welfare of pupils or when the governing board determines that the exchange is based on sound business principles for either:

(a) Unimproved or improved property of equal or greater value.

(b) Unimproved property that the owner contracts to improve if the value of the property ultimately received by the school district is of equal or greater value.

24. For common and high school pupils, assess reasonable fees for optional extracurricular activities and programs conducted when the common or high school is not in session, except that no fees shall be charged for pupils' access to or use of computers or related materials. For high school pupils, the governing board may assess reasonable fees for fine arts and vocational education courses and for optional services, equipment and materials offered to the pupils beyond those required to successfully complete the basic requirements of any other course, except that no fees shall be charged for pupils' access to or use of computers or related materials. Fees assessed pursuant to this paragraph shall be adopted at a public meeting after notice has been given to all parents of pupils enrolled at schools in the district and shall not exceed the actual costs of the activities, programs, services, equipment or materials. The governing board shall authorize principals to waive the assessment of all or part of a fee

1 assessed pursuant to this paragraph if it creates an economic hardship for a
2 pupil. For the purposes of this paragraph, "extracurricular activity" means
3 any optional, noncredit, educational or recreational activity which
4 supplements the education program of the school, whether offered before,
5 during or after regular school hours.

6 25. Notwithstanding section 15-341, subsection A, paragraphs 8 and 10,
7 construct school buildings and purchase or lease school sites, without a vote
8 of the school district electors, if the buildings and sites are totally
9 funded from one or more of the following:

10 (a) Monies in the unrestricted capital outlay fund, except that the
11 estimated cost shall not exceed two hundred fifty thousand dollars for a
12 district that utilizes ~~the provisions of~~ section 15-949.

13 (b) Monies distributed from the school facilities board established by
14 section 15-2001.

15 (c) Monies specifically donated for the purpose of constructing school
16 buildings.

17 Nothing in this paragraph shall be construed to eliminate the requirement for
18 an election to raise revenues for a capital outlay override pursuant to
19 section 15-481 or a bond election pursuant to section 15-491.

20 26. Conduct a background investigation that includes a fingerprint
21 check conducted pursuant to section 41-1750, subsection G for certificated
22 personnel and personnel who are not paid employees of the school district, as
23 a condition of employment. A school district may release the results of a
24 background check to another school district for employment purposes. The
25 school district may charge the costs of fingerprint checks to its
26 fingerprinted employee, except that the school district may not charge the
27 costs of fingerprint checks for personnel who are not paid employees of the
28 school district.

29 27. Sell advertising space on the exterior of school buses as
30 follows:

31 (a) Advertisements shall be age appropriate and not contain promotion
32 of any substance that is illegal for minors such as alcohol, tobacco and
33 drugs or gambling. Advertisements shall comply with the state sex education
34 policy of abstinence.

35 (b) Advertising approved by the governing board may appear only on the
36 sides of the bus in the following areas:

37 (i) The signs shall be below the seat level rub rail and not extend
38 above the bottom of the side windows.

39 (ii) The signs shall be at least three inches from any required
40 lettering, lamp, wheel well or reflector behind the service door or stop
41 signal arm.

42 (iii) The signs shall not extend from the body of the bus so as to
43 allow a handhold or present a danger to pedestrians.

44 (iv) The signs shall not interfere with the operation of any door or
45 window.

1 (v) The signs shall not be placed on any emergency doors.

2 (c) Establish a school bus advertisement fund that is comprised of
3 revenues from the sale of advertising space on school buses. The monies in a
4 school bus advertisement fund are not subject to reversion and shall be used
5 for the following purposes:

6 (i) To comply with the energy conservation measures prescribed in
7 section 15-349 in school districts that are in area A as defined in section
8 49-541, and any remaining monies shall be used to purchase alternative fuel
9 support vehicles and any other pupil related costs as determined by the
10 governing board.

11 (ii) For any pupil related costs as determined by the governing board
12 in school districts not subject to ~~the provisions of~~ item (i) of this
13 subdivision.

14 28. Assess reasonable damage deposits to pupils in grades seven through
15 twelve for the use of textbooks, musical instruments, band uniforms or other
16 equipment required for academic courses. The governing board shall adopt
17 policies on any damage deposits assessed pursuant to this paragraph at a
18 public meeting called for this purpose after providing notice to all parents
19 of pupils in grades seven through twelve in the school district. Principals
20 of individual schools within the district may waive the damage deposit
21 requirement for any textbook or other item if the payment of the damage
22 deposit would create an economic hardship for the pupil. The school district
23 shall return the full amount of the damage deposit for any textbook or other
24 item if the pupil returns the textbook or other item in reasonably good
25 condition within the time period prescribed by the governing board. For the
26 purposes of this paragraph, "in reasonably good condition" means the textbook
27 or other item is in the same or a similar condition as it was when the pupil
28 received it, plus ordinary wear and tear.

29 29. Notwithstanding section 15-1105, expend surplus monies in the civic
30 center school fund for maintenance and operations or unrestricted capital
31 outlay, if sufficient monies are available in the fund after meeting the
32 needs of programs established pursuant to section 15-1105.

33 30. Notwithstanding section 15-1143, expend surplus monies in the
34 community school program fund for maintenance and operations or unrestricted
35 capital outlay, if sufficient monies are available in the fund after meeting
36 the needs of programs established pursuant to section 15-1142.

37 31. Adopt guidelines for standardization of the format of the school
38 report cards required by section 15-746 for schools within the district.

39 32. Adopt policies that require parental notification when a law
40 enforcement officer interviews a pupil on school grounds. Policies adopted
41 pursuant to this paragraph shall not impede a peace officer from the
42 performance of the peace officer's duties. If the school district governing
43 board adopts a policy that requires parental notification:

44 (a) The policy may provide reasonable exceptions to the parental
45 notification requirement.

1 (b) The policy shall set forth whether and under what circumstances a
2 parent may be present when a law enforcement officer interviews the pupil,
3 including reasonable exceptions to the circumstances under which a parent may
4 be present when a law enforcement officer interviews the pupil, and shall
5 specify a reasonable maximum time after a parent is notified that an
6 interview of a pupil by a law enforcement officer may be delayed to allow the
7 parent to be present.

8 33. Enter into voluntary partnerships with any party to finance with
9 funds other than school district funds and cooperatively design school
10 facilities that comply with the adequacy standards prescribed in section
11 15-2011 and the square footage per pupil requirements pursuant to section
12 15-2041, subsection D, paragraph 3, subdivision (b). The design plans and
13 location of any such school facility shall be submitted to the school
14 facilities board for approval pursuant to section 15-2041, subsection 0. If
15 the school facilities board approves the design plans and location of any
16 such school facility, the party in partnership with the school district may
17 cause to be constructed and the district may begin operating the school
18 facility before monies are distributed from the school facilities board
19 pursuant to section 15-2041. Monies distributed from the new school
20 facilities fund to a school district in a partnership with another party to
21 finance and design the school facility shall be paid to the school district
22 pursuant to section 15-2041. The school district shall reimburse the party
23 in partnership with the school district from the monies paid to the school
24 district pursuant to section 15-2041, in accordance with the voluntary
25 partnership agreement. Before the school facilities board distributes any
26 monies pursuant to this subsection, the school district shall demonstrate to
27 the school facilities board that the facilities to be funded pursuant to
28 section 15-2041, subsection 0 meet the minimum adequacy standards prescribed
29 in section 15-2011. If the cost to construct the school facility exceeds the
30 amount that the school district receives from the new school facilities fund,
31 the partnership agreement between the school district and the other party
32 shall specify that, except as otherwise provided by the other party, any such
33 excess costs shall be the responsibility of the school district. The school
34 district governing board shall adopt a resolution in a public meeting that
35 analysis has been conducted on the prospective effects of the decision to
36 operate a new school with existing monies from the school district's
37 maintenance and operations budget and how this decision may affect other
38 schools in the school district. If a school district acquires land by
39 donation at an appropriate school site approved by the school facilities
40 board and a school facility is financed and built on the land pursuant to
41 this paragraph, the school facilities board shall distribute an amount equal
42 to twenty per cent of the fair market value of the land that can be used for
43 academic purposes. The school district shall place the monies in the
44 unrestricted capital outlay fund and increase the unrestricted capital budget
45 limit by the amount of the monies placed in the fund. Monies distributed

1 under this paragraph shall be distributed from the new school facilities fund
2 pursuant to section 15-2041. If a school district acquires land by donation
3 at an appropriate school site approved by the school facilities board and a
4 school facility is financed and built on the land pursuant to this paragraph,
5 the school district shall not receive monies from the school facilities board
6 for the donation of real property pursuant to section 15-2041, subsection F.
7 It is unlawful for:

8 (a) A county, city or town to require as a condition of any land use
9 approval that a landowner or landowners that entered into a partnership
10 pursuant to this paragraph provide any contribution, donation or gift, other
11 than a site donation, to a school district. This subdivision only applies to
12 the property in the voluntary partnership agreement pursuant to this
13 paragraph.

14 (b) A county, city or town to require as a condition of any land use
15 approval that the landowner or landowners located within the geographic
16 boundaries of the school subject to the voluntary partnership pursuant to
17 this paragraph provide any donation or gift to the school district except as
18 provided in the voluntary partnership agreement pursuant to this paragraph.

19 (c) A community facilities district established pursuant to title 48,
20 chapter 4, article 6 to be used for reimbursement of financing the
21 construction of a school pursuant to this paragraph.

22 (d) ~~For~~ A school district to enter into an agreement pursuant to this
23 paragraph with any party other than a master planned community party. Any
24 land area consisting of at least three hundred twenty acres that is the
25 subject of a development agreement with a county, city or town entered into
26 pursuant to section 9-500.05 or 11-1101 shall be deemed to be a master
27 planned community. For the purposes of this subdivision, "master planned
28 community" means a land area consisting of at least three hundred twenty
29 acres, which may be noncontiguous, that is the subject of a zoning ordinance
30 approved by the governing body of the county, city or town in which the land
31 is located that establishes the use of the land area as a planned area
32 development or district, planned community development or district, planned
33 unit development or district or other land use category or district that is
34 recognized in the local ordinance of such county, city or town and that
35 specifies the use of such land is for a master planned development.

36 Sec. 7. Section 15-349, Arizona Revised Statutes, is amended to read:

37 15-349. Operation of motor vehicle fleet; options to
38 conventional fuels

39 A. The governing board of a school district with an average daily
40 membership as defined in section 15-901 of more than three thousand that is
41 located within or that has bus routes running within area A as defined in
42 section 49-541 shall develop and implement, subject to the availability of a
43 state air quality funding source, a vehicle fleet plan for vehicles with a
44 gross vehicle weight rating of at least seventeen thousand five hundred
45 pounds for the purpose of encouraging the use of fuels listed pursuant to

1 this subsection in school district owned vehicles. The plan shall provide
2 for at least fifty per cent of the fleet with a gross vehicle weight rating
3 of at least seventeen thousand five hundred pounds to operate on any of the
4 following by December 31, 2004, and each year thereafter:

5 1. Alternative fuels or clean burning fuels as defined in section
6 1-215.

7 2. Ultra low sulfur diesel fuel as defined in section 49-558.01 that
8 is used in an engine with an emission control device.

9 3. Vehicles powered by an engine that meets or exceeds an emission
10 standard for diesel particulate matter of 0.05 grams per brake horsepower
11 hour.

12 B. Engine retrofits or conversions meet the requirements of subsection
13 A of this section if they have been approved for use by any one of the
14 following:

15 1. The United States environmental protection agency voluntary
16 retrofit program.

17 2. The United States environmental protection agency verification
18 protocol for retrofit catalyst particulate filter and engine modification
19 control technologies for highway and nonroad use diesel engines.

20 3. The California air resources board diesel emission control strategy
21 verification procedure.

22 4. Sections 43100 and 43102 of the health and safety code of the state
23 of California.

24 5. Actual emission testing performed on the vehicle.

25 C. This section does not preclude a school district from using any
26 local, federal or private funding sources that may be available in order to
27 comply with the requirements of this section.

28 D. If the requirements of subsection A of this section are met by the
29 use of clean burning fuel as defined in section 1-215, vehicle equivalents
30 under those requirements shall be calculated as follows:

31 1. One vehicle equivalent for every four hundred fifty gallons of neat
32 biodiesel or two thousand two hundred fifty gallons of a diesel fuel
33 substitute prescribed in section 1-215, paragraph 7, subdivision (b).

34 2. One vehicle equivalent for every five hundred thirty gallons of the
35 fuel prescribed in section 1-215, paragraph 7, subdivision (d).

36 E. THE OPERATOR OF EACH SCHOOL BUS USED FOR THE TRANSPORTATION OF
37 PUPILS WHO ATTEND SCHOOLS IN A SCHOOL DISTRICT OR WHO ATTEND A CHARTER SCHOOL
38 SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

39 1. IMMEDIATELY TURN OFF THE ENGINE OF THE SCHOOL BUS WHEN THE SCHOOL
40 BUS ARRIVES AT A SAFE STATIONARY POSITION AT THE SCHOOL SITE.

41 2. NOT START THE ENGINE OF A STATIONARY SCHOOL BUS MORE THAN THIRTY
42 SECONDS BEFORE THE DEPARTURE OF THE SCHOOL BUS FROM THE SCHOOL SITE.

43 3. UNLESS THE ENGINE IS OPERATING FOR HEALTH, MAINTENANCE OR SAFETY
44 PURPOSES, TURN OFF THE ENGINE OF THE SCHOOL BUS WHEN THE SCHOOL BUS IS
45 STATIONARY FOR MORE THAN FIVE MINUTES ON PROPERTY OTHER THAN THE SCHOOL SITE.

1 Sec. 8. Title 15, chapter 9, article 1, Arizona Revised Statutes, is
2 amended by adding section 15-910.02, to read:

3 15-910.02. Energy and water savings funds

4 A. EACH SCHOOL DISTRICT AND CHARTER SCHOOL MAY ESTABLISH AN ENERGY AND
5 WATER SAVINGS FUND THAT CONSISTS OF A DESIGNATED POOL OF CAPITAL INVESTMENT
6 MONIES TO FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL FACILITIES. A
7 SCHOOL DISTRICT OR CHARTER SCHOOL MAY DEPOSIT IN THE FUND MONIES FROM ONE OR
8 MORE COMPANIES THAT PROVIDE UTILITY, ENERGY OR WATER SERVICES TO THE SCHOOL
9 DISTRICT OR CHARTER SCHOOL PURSUANT TO CONTRACTS THAT ARE EXECUTED BETWEEN
10 THE COMPANIES AND THE SCHOOL DISTRICT OR CHARTER SCHOOL AND THAT ARE DESIGNED
11 TO SAVE ENERGY OR WATER IN SCHOOL FACILITIES.

12 B. THE AUDITOR GENERAL AND THE DEPARTMENT OF EDUCATION SHALL PRESCRIBE
13 THE APPROPRIATE DESIGNATION OF THE ENERGY AND WATER SAVINGS FUNDS IN THE
14 UNIFORM SYSTEM OF FINANCIAL RECORDS AND SHALL PRESCRIBE REPORTING
15 REQUIREMENTS ON THE APPROPRIATE BUDGET FORMS AND ANNUAL FINANCIAL REPORT
16 FORMS.

17 C. MONIES DEPOSITED IN AN ENERGY AND WATER SAVINGS FUND SHALL BE USED
18 AS A DESIGNATED POOL OF CAPITAL INVESTMENT MONIES TO PAY FOR THE INCREMENTAL
19 COST OF ENERGY OR WATER SAVINGS MEASURES IN SCHOOL FACILITIES THAT ARE OWNED
20 OR OPERATED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL. ANY CONTRACT ENTERED
21 INTO PURSUANT TO THIS SECTION SHALL CONTAIN AN AGREEMENT BETWEEN THE UTILITY,
22 ENERGY OR WATER SERVICES COMPANY AND THE SCHOOL DISTRICT OR CHARTER SCHOOL
23 THAT EACH PARTY HAS PERFORMED A REASONABLE INVESTIGATION TO DETERMINE THAT
24 THE MEASURES CONTEMPLATED BY THE CONTRACT WILL RESULT IN STATED ENERGY OR
25 WATER SAVINGS. CONTRACT TERMS MAY EXTEND THE PERIOD OF THE CAPITAL
26 INVESTMENT REPAYMENT SCHEDULE PRESCRIBED IN SUBSECTION G OF THIS SECTION UP
27 TO THE EXPECTED LIFE OF THE ENERGY OR WATER SAVINGS MEASURES, OR TWENTY-FIVE
28 YEARS, WHICHEVER IS SHORTER.

29 D. EXPENDITURES FROM AN ENERGY AND WATER SAVINGS FUND SHALL BE USED
30 ONLY FOR THE FOLLOWING:

31 1. PROJECTS OR MEASURES PURSUANT TO A CONTRACT PURSUANT TO THIS
32 SECTION THAT SAVE ENERGY OR WATER IN SCHOOL FACILITIES THAT ARE OWNED OR
33 OPERATED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL. MONIES MAY BE USED
34 PURSUANT TO THIS PARAGRAPH TO PROVIDE TECHNICAL ASSISTANCE REGARDING ENERGY
35 OR WATER SAVINGS TO SCHOOL DISTRICTS AND CHARTER SCHOOLS.

36 2. THE REPAYMENT TO THE UTILITY, ENERGY OR WATER SERVICES COMPANY OF
37 CAPITAL INVESTMENT MONIES DEPOSITED IN THE FUND PLUS REASONABLE CARRYING
38 CHARGES PURSUANT TO THE TERMS OF THE CONTRACT.

39 E. SCHOOL DISTRICTS AND CHARTER SCHOOLS SHALL PROCURE ENERGY OR WATER
40 SAVINGS MEASURES OR SERVICES WITH MONIES DISTRIBUTED FROM THE ENERGY AND
41 WATER SAVINGS FUNDS.

42 F. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
43 OR SERVICES, THE UTILITY, ENERGY OR WATER SERVICES COMPANY SHALL COMPUTE AND
44 THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL REVIEW AND APPROVE THE ESTIMATED
45 AMOUNT OF THE ENERGY OR WATER SAVINGS AND THE ASSOCIATED IMPACT ON ENERGY OR

1 WATER COSTS TO BE ACHIEVED BY THE SCHOOL DISTRICT OR CHARTER SCHOOL ON AN
2 ANNUAL AND MONTHLY BASIS OVER THE EXPECTED LIFE OF THE MEASURES, AND SHALL
3 INCLUDE THESE ESTIMATES IN THE CONTRACT. THE UTILITY, ENERGY OR WATER
4 SERVICES COMPANY AND THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL UPDATE THE
5 ANNUAL AND MONTHLY ENERGY OR WATER SAVINGS AND ASSOCIATED COST IMPACT
6 ESTIMATES ANNUALLY BASED ON ACTUAL EXPERIENCE.

7 G. BEFORE THE IMPLEMENTATION OF THE ENERGY OR WATER SAVINGS MEASURES
8 OR SERVICES, THE UTILITY, ENERGY OR WATER SERVICES COMPANY AND THE SCHOOL
9 DISTRICT OR CHARTER SCHOOL SHALL JOINTLY DEVELOP A SCHEDULE OF MONTHLY
10 PAYMENTS FOR REPAYMENT OF THE CAPITAL INVESTMENT MONIES TO THE UTILITY,
11 ENERGY OR WATER SERVICES COMPANY. THE REPAYMENT SCHEDULE SHALL RESULT IN
12 LOWER ENERGY OR WATER COSTS FOR THE SCHOOL DISTRICT OR CHARTER SCHOOL OVER
13 THE LIFE OF THE INSTALLED MEASURES THAN THE SCHOOL DISTRICT OR CHARTER SCHOOL
14 WOULD HAVE EXPERIENCED WITHOUT THE INSTALLATION OF THE MEASURES. THE
15 REPAYMENT SCHEDULE SHALL BE INCLUDED IN THE CONTRACT.

16 H. THE SCHOOL DISTRICT OR CHARTER SCHOOL SHALL TRANSFER ON A MONTHLY
17 BASIS THE AMOUNT OF THE MONTHLY PAYMENT PRESCRIBED IN SUBSECTION G OF THIS
18 SECTION TO THE ENERGY AND WATER SAVINGS FUND FROM THE MAINTENANCE AND
19 OPERATION PORTION OF THE SCHOOL DISTRICT'S OR CHARTER SCHOOL'S BUDGET TO
20 REPAY ANY UNPAID BALANCE OF THE CAPITAL INVESTMENT PREVIOUSLY DEPOSITED IN
21 THE ENERGY AND WATER SAVINGS FUND FROM THE UTILITY, ENERGY OR WATER SERVICES
22 COMPANY PLUS A REASONABLE CARRYING CHARGE. FOR THE PERIOD OF TIME THAT THE
23 COMPANY'S CAPITAL INVESTMENT MONIES AND REASONABLE CARRYING CHARGE REMAIN
24 UNPAID, THE UTILITY, ENERGY OR WATER SERVICES COMPANY SHALL PROVIDE A
25 SEPARATE BILLING OR BILLING COMPONENT TO REPAY THE CAPITAL INVESTMENT ON A
26 MONTHLY BASIS, PURSUANT TO THE REPAYMENT SCHEDULE PRESCRIBED IN SUBSECTION G
27 OF THIS SECTION, WHICH SHALL BE PAID BY THE SCHOOL DISTRICT OR CHARTER SCHOOL
28 FROM THE ENERGY AND WATER SAVINGS FUND.

29 I. AFTER THE BALANCE OF THE UTILITY, ENERGY OR WATER SERVICES
30 COMPANY'S CAPITAL INVESTMENT MONIES DEPOSITED IN THE ENERGY AND WATER SAVINGS
31 FUND PLUS A REASONABLE CARRYING CHARGE ARE REPAYED IN FULL BY THE SCHOOL
32 DISTRICT OR CHARTER SCHOOL, THE SCHOOL DISTRICT OR CHARTER SCHOOL MAY
33 DISCONTINUE THE DEPOSIT IN THE ENERGY AND WATER SAVINGS FUND OF AMOUNTS THAT
34 ARE PRESCRIBED IN SUBSECTION H OF THIS SECTION.

35 J. ANY MONIES ASSOCIATED WITH AN ENERGY OR WATER SAVINGS PROJECT
36 REMAINING IN THE ENERGY AND WATER SAVINGS FUND AFTER THE CAPITAL INVESTMENT
37 MONIES OF THE UTILITY, ENERGY OR WATER SERVICES COMPANY PLUS A REASONABLE
38 CARRYING CHARGE ARE REPAYED IN FULL MAY BE TRANSFERRED TO THE MAINTENANCE AND
39 OPERATION PORTION OF THE SCHOOL DISTRICT'S OR CHARTER SCHOOL'S BUDGET, AND
40 THE GENERAL BUDGET LIMIT MAY BE INCREASED BY THE AMOUNT TRANSFERRED.

41 K. EACH SCHOOL DISTRICT OR CHARTER SCHOOL MAY ANNUALLY RETAIN UP TO
42 TWENTY PER CENT OF THE ANNUAL COST SAVINGS THAT RESULT FROM THE ENERGY OR
43 WATER SAVINGS MEASURES IF THE BALANCE OF THE ANNUAL ENERGY OR WATER COST
44 SAVINGS IS SUFFICIENT TO MAKE THE PAYMENTS IN THE REPAYMENT SCHEDULE
45 PRESCRIBED IN SUBSECTIONS G AND H OF THIS SECTION. THE SCHOOL DISTRICT OR

1 CHARTER SCHOOL MAY TRANSFER THIS TWENTY PER CENT OF THE ANNUAL COST SAVINGS
2 TO THE MAINTENANCE AND OPERATIONS PORTION OF THE SCHOOL DISTRICT'S OR CHARTER
3 SCHOOL'S BUDGET, AND THE GENERAL BUDGET LIMIT MAY BE INCREASED BY THE AMOUNT
4 TRANSFERRED.

5 L. SCHOOL DISTRICTS OR CHARTER SCHOOLS SHALL NOT USE OR DEPOSIT ANY
6 EXCESS UTILITIES MONIES PURSUANT TO SECTION 15-910 IN THE ENERGY AND WATER
7 SAVINGS FUND.

8 M. SCHOOL DISTRICTS OR CHARTER SCHOOLS MAY DEPOSIT REBATE OR GRANT
9 MONIES IN THE ENERGY AND WATER SAVINGS FUND TO ASSIST IN FUNDING ENERGY OR
10 WATER SAVINGS PROJECTS. SUCH REBATE OR GRANT MONIES SHALL BE USED TO REDUCE
11 THE TOTAL COST OF ENERGY OR WATER SAVINGS PROJECTS AND TO REDUCE THE AMOUNT
12 OF CAPITAL INVESTMENT MONIES RECEIVED FROM AND REPAID TO UTILITY, ENERGY OR
13 WATER SERVICES COMPANIES. SCHOOL DISTRICTS OR CHARTER SCHOOLS ARE NOT
14 REQUIRED TO REPAY THE REBATE OR GRANT MONIES IN THE MANNER DESCRIBED IN
15 SUBSECTION H OF THIS SECTION, PURSUANT TO THE AGREEMENTS WITH THE PROVIDERS
16 OF REBATE OR GRANT FUNDS.

17 N. SCHOOL DISTRICTS OR CHARTER SCHOOLS MAY DEPOSIT MONIES FROM OTHER
18 FUNDING SOURCES, INCLUDING FROM CLEAN RENEWABLE ENERGY BONDS, IN THE ENERGY
19 AND WATER SAVINGS FUND TO FUND ENERGY OR WATER SAVING PROJECTS IN SCHOOL
20 FACILITIES. SUCH MONIES SHALL BE REPAID IN A MANNER CONSISTENT WITH THIS
21 SECTION AND PURSUANT TO THE CONTRACT BETWEEN THE SCHOOL DISTRICT OR CHARTER
22 SCHOOL AND THE PROVIDER OF SUCH FUNDING.

23 O. THIS SECTION DOES NOT IMPOSE AN OBLIGATION ON ANY ENERGY UTILITY,
24 WATER UTILITY, PUBLIC SERVICE CORPORATION OR AGRICULTURAL IMPROVEMENT
25 DISTRICT TO INVEST MONIES OR CONTRACT WITH ANY SCHOOL DISTRICT OR CHARTER
26 SCHOOL.

27 Sec. 9. Title 30, Arizona Revised Statutes, is amended by adding
28 chapter 7, to read:

29 CHAPTER 7

30 ELECTRIC UTILITY RENEWABLE ENERGY STANDARDS

31 ARTICLE 1. GENERAL PROVISIONS

32 30-901. Renewable electricity energy standards; implementation 33 schedule, terms and conditions; report; definitions

34 A. IT IS THE GOAL OF THIS STATE TO ENCOURAGE THE REDUCTION OF CARBON
35 EMISSIONS BY THE CONSERVATION OF ENERGY AND THE DEVELOPMENT OF RENEWABLE AND
36 NONCARBON EMITTING ENERGY RESOURCES IN CONJUNCTION WITH MAINTAINING RELIABLE
37 AND LOW COST ELECTRIC SERVICE TO UTILITY CUSTOMERS IN THIS STATE. THIS GOAL
38 IS THAT AT LEAST FIFTEEN PER CENT OF THE ELECTRICITY DELIVERED TO RETAIL
39 UTILITY CUSTOMERS IN THIS STATE SHALL BE FROM RENEWABLE SOURCES OF ENERGY.

40 B. THE APPROPRIATE REGULATORY AUTHORITY FOR EACH ELECTRIC LOAD SERVING
41 UTILITY AND ELECTRIC SERVICE PROVIDER SHALL DETERMINE THE APPROPRIATE
42 SCHEDULE FOR, AND OTHER TERMS AND CONDITIONS OF, IMPLEMENTING THE FOLLOWING
43 RENEWABLE ENERGY MINIMUM SUSTAINABLE PORTFOLIO STANDARDS:

1 1. FOR PUBLIC POWER ENTITIES SERVING AN ANNUAL RETAIL LOAD OF THREE
2 HUNDRED THOUSAND MEGAWATT HOURS OR GREATER, A MINIMUM SUSTAINABLE PORTFOLIO
3 STANDARD THAT INCLUDES A REQUIREMENT THAT, BY 2025, FIFTEEN PER CENT OF THE
4 ELECTRICITY DELIVERED TO THEIR RETAIL CUSTOMERS IN THIS STATE SHALL BE FROM
5 RENEWABLE SOURCES OF ENERGY.

6 2. FOR PUBLIC POWER ENTITIES SERVING AN ANNUAL RETAIL LOAD OF MORE
7 THAN ONE HUNDRED THOUSAND MEGAWATT HOURS BUT LESS THAN THREE HUNDRED THOUSAND
8 MEGAWATT HOURS, A MINIMUM SUSTAINABLE PORTFOLIO STANDARD THAT INCLUDES A
9 REQUIREMENT THAT, BY 2025, SEVEN PER CENT OF THE ELECTRICITY DELIVERED TO
10 THEIR RETAIL CUSTOMERS IN THIS STATE SHALL BE FROM RENEWABLE SOURCES OF
11 ENERGY.

12 3. ADDITIONAL APPROPRIATE TOOLS TO FURTHER REDUCE CARBON EMISSIONS,
13 INCLUDING CONSUMER BASED INCENTIVES, SUCH AS ENERGY EFFICIENCY REBATES, NET
14 METERING, DEMAND RESPONSE PROGRAMS AND USAGE INFORMATION AND NET METERING FOR
15 CUSTOMER FACILITIES GENERATING BETWEEN FIVE HUNDRED WATTS AND ONE HUNDRED
16 KILOWATTS AND RESELLING EXCESS ELECTRICITY TO THE PUBLIC POWER ENTITY.

17 4. CUSTOMER INSTALLATION OF, AND INVESTMENT IN, ON-SITE RENEWABLE
18 ENERGY FACILITIES THAT OFFSET CONSUMPTION AND CAN GENERATE AND DELIVER
19 ELECTRICITY TO UTILITY DISTRIBUTION FACILITIES THROUGH SUCH MEANS AS COST
20 SHARING, NET METERING AND CONSUMER INFORMATION AND DISTRIBUTED GENERATION
21 REQUIREMENTS.

22 C. THE APPROPRIATE REGULATORY AUTHORITY FOR EACH ELECTRICITY LOAD
23 SERVING PUBLIC POWER ENTITY SHALL REVIEW AND REPORT ANNUALLY TO THE
24 DEPARTMENT OF COMMERCE ENERGY OFFICE IN WRITING:

25 1. THE PUBLIC POWER ENTITY'S SUSTAINABLE PORTFOLIO STANDARD INCLUDING
26 COSTS AND ENVIRONMENTAL BENEFITS OF RELIANCE ON RENEWABLE ENERGY RESOURCES.

27 2. THE EXTENT TO WHICH CONSUMER-BASED INCENTIVES ARE EFFECTIVE IN
28 REDUCING THE DEMAND ON A UTILITY TO GENERATE AND DELIVER ENERGY TO SERVE ITS
29 CUSTOMERS IN THIS STATE.

30 D. THE DETERMINATION OF IMPLEMENTATION SCHEDULES, TERMS AND CONDITIONS
31 BY THE APPROPRIATE REGULATORY AUTHORITY FOR EACH PUBLIC POWER ENTITY SHALL BE
32 ACCORDING TO A PUBLIC PROCESS INCLUDING AT LEAST ONE PUBLIC HEARING AND THE
33 OPPORTUNITY FOR PUBLIC COMMENT.

34 E. FOR THE PURPOSES OF THIS SECTION:

35 1. "PUBLIC POWER ENTITY" MEANS ANY MUNICIPAL CORPORATION, CITY, TOWN
36 OR OTHER POLITICAL SUBDIVISION THAT IS ORGANIZED UNDER LAW, THAT DISTRIBUTES
37 OR OTHERWISE PROVIDES ELECTRICITY TO RETAIL CUSTOMERS IN THIS STATE AND THAT
38 IS NOT A PUBLIC SERVICE CORPORATION.

39 2. "RENEWABLE ENERGY RESOURCES" INCLUDES SOLAR, WIND, BIOMASS,
40 AGRICULTURAL WASTE, LANDFILL GAS AND OTHER NONPETROLEUM RENEWABLE SOURCES.
41 RENEWABLE ENERGY RESOURCES DO NOT INCLUDE NUCLEAR OR NATURAL GAS STEAM
42 GENERATION OR A NATURAL GAS REFORMER FOR USE IN FUEL CELLS OR HYDROELECTRIC
43 GENERATION STATIONS GREATER THAN TWO MEGAWATTS IN CAPACITY.

1 Sec. 10. Section 34-201, Arizona Revised Statutes, is amended to read:

2 34-201. Notice of intention to receive bids and enter contract:
3 procedure; doing work without advertising for bids:
4 county compliance

5 A. Except as provided in subsections B through G and L of this
6 section, every agent ~~shall~~, upon acceptance and approval of the working
7 drawings and specifications, **SHALL** publish a notice to contractors of
8 intention to receive bids and contract for the proposed work. This notice
9 shall be published by advertising in a newspaper of general circulation in
10 the county in which the agent is located for two consecutive publications if
11 it is a weekly newspaper or for two publications that are at least six but no
12 more than ten days apart if it is a daily newspaper. The notice shall state:

13 1. The nature of the work required, the type, purpose and location of
14 the proposed building, ~~and~~ where the plans, specifications and full
15 information as to the proposed work may be obtained.

16 2. That contractors desiring to submit proposals may obtain copies of
17 full or partial sets of plans and specifications for estimate on request or
18 by appointment. The return of such plans and specifications shall be
19 guaranteed by a deposit of a designated amount which shall be refunded on
20 return of the plans and specifications in good order.

21 3. That every proposal shall be accompanied by a certified check,
22 cashier's check or surety bond for ten per cent of the amount of the bid
23 included in the proposal as a guarantee that the contractor will enter into a
24 contract to perform the proposal in accordance with the plans and
25 specifications. Notwithstanding ~~the provisions of~~ any other statute, the
26 surety bond shall be executed solely by a surety company or companies holding
27 a certificate of authority to transact surety business in this state issued
28 by the director of the department of insurance pursuant to title 20, chapter
29 2, article 1. The surety bond shall not be executed by an individual surety
30 or sureties, even if the requirements of section 7-101 are satisfied. The
31 certified check, cashier's check or surety bond shall be returned to the
32 contractors whose proposals are not accepted, and to the successful
33 contractor upon the execution of a satisfactory bond and contract as provided
34 in this article. The conditions and provisions of the surety bid bond
35 regarding the surety's obligations shall follow the following form:

36 Now, therefore, if the obligee accepts the proposal of the
37 principal and the principal enters into a contract with the
38 obligee in accordance with the terms of the proposal and gives
39 the bonds and certificates of insurance as specified in the
40 standard specifications with good and sufficient surety for the
41 faithful performance of the contract and for the prompt payment
42 of labor and materials furnished in the prosecution of the
43 contract, or in the event of the failure of the principal to
44 enter into the contract and give the bonds and certificates of
45 insurance, if the principal pays to the obligee the difference

1 not to exceed the penalty of the bond between the amount
 2 specified in the proposal and such larger amount for which the
 3 obligee may in good faith contract with another party to perform
 4 the work covered by the proposal then this obligation is void.
 5 Otherwise it remains in full force and effect provided, however,
 6 that this bond is executed pursuant to the provisions of section
 7 34-201, Arizona Revised Statutes, and all liabilities on this
 8 bond shall be determined in accordance with the provisions of
 9 the section to the extent as if it were copied at length herein.

10 4. That the right is reserved to reject any or all proposals or to
 11 withhold the award for any reason the agent determines.

12 B. If the agent believes that any construction, building addition or
 13 alteration contemplated at a public institution can be advantageously done by
 14 the inmates of the public institution and regularly employed help, the agent
 15 may cause the work to be done without advertising for bids.

16 C. Any building, structure, addition or alteration may be constructed
 17 either with or without the use of the agent's regularly employed personnel
 18 without advertising for bids provided that the total cost of the work,
 19 excluding materials and equipment previously acquired by bid, does not
 20 exceed:

21 1. In fiscal year 1994-1995, fourteen thousand dollars.

22 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
 23 amount provided in paragraph 1 of this subsection adjusted by the annual
 24 percentage change in the GDP price deflator as defined in section 41-563.

25 D. Notwithstanding ~~the provisions of~~ subsection C of this section, any
 26 street, road, bridge, water or sewer work, other than a water or sewer
 27 treatment plant or building, may be constructed either with or without the
 28 use of the agent's regularly employed personnel without advertising for bids
 29 provided that the total cost of the work does not exceed:

30 1. In fiscal year 1994-1995, one hundred fifty thousand dollars.

31 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
 32 amount provided in paragraph 1 of this subsection adjusted by the annual
 33 percentage change in the GDP price deflator as defined in section 41-563.

34 E. For the purposes of subsection D of this section, the total cost of
 35 water or sewer work does not include services provided by volunteers or
 36 donations made for the water or sewer project.

37 F. Notwithstanding the provisions of this section, an agent may:

38 1. Construct, reconstruct, install or repair a natural gas or electric
 39 utility and distribution system, owned or operated by such agent, with
 40 regularly employed personnel of the agent without advertising for bids,
 41 unless otherwise prohibited by charter or ordinance.

42 2. Construct recreational projects, including trails, playgrounds,
 43 ballparks and other similar facilities and excluding buildings, structures,
 44 building additions and alterations to buildings, structures and building
 45 additions, with volunteer workers or workers provided by a nonprofit

1 organization without advertising for bids for labor and materials provided
2 that the total cost of the work does not exceed:

3 (a) In fiscal year 2001-2002, one hundred fifty thousand dollars.

4 (b) In fiscal year 2002-2003 and each fiscal year thereafter, the
5 amount provided in subdivision (a) of this paragraph adjusted by the annual
6 percentage change in the GDP price deflator as defined in section 41-563.

7 G. A contribution by an agent for the financing of public
8 infrastructure made pursuant to a development agreement is exempt from ~~the~~
9 ~~provisions of~~ this section if such contribution for any single development
10 does not exceed:

11 1. In fiscal year 1994-1995, one hundred thousand dollars.

12 2. In fiscal year 1995-1996 and each fiscal year thereafter, the
13 amount provided in paragraph 1 of this subsection adjusted by the annual
14 percentage change in the GDP price deflator as defined in section 41-563.

15 H. In addition to other state or local requirements relating to the
16 publication of bids, each agent shall provide at least one set of all plans
17 and specifications to any construction news reporting service that files an
18 annual request with the agent. For the purposes of this subsection,
19 "construction news reporting service" means a service that researches,
20 gathers and disseminates news and reports either in print or electronically,
21 on at least a weekly basis for building projects, construction bids, the
22 purchasing of materials, supplies or services and other construction bidding
23 or planned activity to the allied construction industry. The allied
24 construction industry includes both general and specialty contractors,
25 builders, material and service suppliers, architects and engineers, owners,
26 developers and government agencies.

27 I. Any construction by a county under this section shall comply with
28 the uniform accounting system prescribed for counties by the auditor general
29 under section 41-1279.21. Any construction by a city or town under this
30 section shall comply with generally accepted accounting principles.

31 J. Any construction, building addition or alteration project which is
32 financed by monies of this state or its political subdivisions shall not use
33 endangered wood species unless an exemption is granted by the director of the
34 department of administration. The director shall only grant an exemption if
35 the use of endangered wood species is deemed necessary for historical
36 restoration or to repair existing facilities and the use of any substitute
37 material is not practical. Any lease-purchase agreement entered into by this
38 state or its political subdivisions for construction shall specify that no
39 endangered wood species may be used in the construction unless an exemption
40 is granted by the director. ~~As used in~~ FOR THE PURPOSES OF this subsection,
41 "endangered wood species" includes those listed in appendix I of the
42 convention on international trade in endangered species of wild flora and
43 fauna.

1 K. All bonds given by a contractor and surety pursuant to ~~the~~
 2 ~~provisions of~~ this article, regardless of their actual form, will be deemed
 3 by law to be the form required and set forth in this article and no other.

4 L. Any building, structure, addition or alteration may be constructed
 5 without complying with this article if the construction, including
 6 construction of buildings or structures on public or private property, is
 7 required as a condition of development of private property and is authorized
 8 by section 9-463.01 or 11-806.01. For the purposes of this subsection,
 9 building does not include police, fire, school, library, or other public
 10 buildings.

11 M. Notwithstanding section 34-221, any agent may enter into:

12 1. A guaranteed energy cost savings contract with a qualified
 13 provider, as those terms are defined in section 15-213.01, for the purchase
 14 of energy cost savings measures without complying with this article and may
 15 procure a guaranteed energy cost savings contract through the competitive
 16 sealed proposal process prescribed in title 41, chapter 23, article 3 or any
 17 similar competitive proposal process adopted by the agent as long as the
 18 agent follows any additional requirements set forth in section 15-213.01.

19 2. A SIMPLIFIED ENERGY PERFORMANCE CONTRACT UNDER THE SIMPLIFIED
 20 SCHOOL CONSTRUCTION PROCUREMENT PROGRAM DESCRIBED IN SECTION 15-213,
 21 SUBSECTION A, PARAGRAPH 3 TO ACQUIRE ENERGY SAVING AND RENEWABLE ENERGY
 22 MEASURES WITHOUT COMPLYING WITH THIS ARTICLE.

23 Sec. 11. Section 34-451, Arizona Revised Statutes, is amended to read:

24 34-451. Energy conservation standards for public buildings;
 25 energy sources

26 A. The department of commerce in consultation with persons responsible
 27 for building systems shall adopt and publish energy conservation standards
 28 for construction of all new capital projects as defined in section 41-790,
 29 including buildings designed and constructed by school districts, community
 30 college districts and universities. These standards shall be consistent with
 31 the recommended energy conservation standards of the American society of
 32 heating, refrigerating and air conditioning engineers and the international
 33 energy conservation code.

34 B. The standards shall be adopted to achieve energy conservation and
 35 shall allow for design flexibility.

36 C. The following state agencies shall reduce energy use in public
 37 buildings that they administer by ten per cent per square foot of floor area
 38 on or before July 1, 2008, ~~and~~ by fifteen per cent per square foot of floor
 39 area on or before July 1, 2011, BY TWENTY PER CENT PER SQUARE FOOT OF FLOOR
 40 AREA ON OR BEFORE JULY 1, 2015 AND BY THIRTY PER CENT PER SQUARE FOOT OF
 41 FLOOR AREA ON OR BEFORE JULY 1, 2020, using July 1, 2001 through June 30,
 42 2002 as the baseline year:

- 43 1. The department of administration for its building systems.
- 44 2. The Arizona board of regents for its building systems.
- 45 3. The department of transportation for its building systems.

D. ALL SCHOOL DISTRICTS SHALL REDUCE ENERGY USE IN PUBLIC BUILDINGS THAT THEY ADMINISTER BY TEN PER CENT PER SQUARE FEET OF FLOOR AREA ON OR BEFORE JULY 1, 2011, BY FIFTEEN PER CENT PER SQUARE FOOT OF FLOOR AREA ON OR BEFORE JULY 1, 2015 AND BY TWENTY PER CENT PER SQUARE FOOT OF FLOOR AREA ON OR BEFORE JULY 1, 2020, USING JULY 1, 2001 THROUGH JUNE 30, 2002 AS THE BASELINE YEAR.

~~D.~~ E. The ~~state~~ DEPARTMENT OF COMMERCE energy office shall provide technical assistance to the state agencies prescribed in subsection C of this section AND TO SCHOOL DISTRICTS. On or before ~~July~~ OCTOBER 1 of each year, the ~~state~~ DEPARTMENT OF COMMERCE energy office shall measure compliance with ~~subsection C~~ SUBSECTIONS C AND D of this section, compile the results of that monitoring and report to the speaker of the house of representatives and the president of the senate as to the progress of attaining the goals prescribed in ~~subsection C~~ SUBSECTIONS C AND D of this section. The ~~state~~ DEPARTMENT OF COMMERCE energy office shall include in its report an explanation of the reasons for any failure to achieve energy reductions in specific building systems as prescribed in ~~subsection C~~ SUBSECTIONS C AND D of this section.

~~E.~~ F. All state agencies, SCHOOL DISTRICTS AND UNIVERSITIES shall procure energy efficient products that are certified by the United States department of energy or the United States environmental protection agency as energy star or that are certified under the federal energy management program in all categories that are available unless the products are shown not to be cost-effective on a life cycle cost basis.

G. ON OR BEFORE JULY 1, 2013, ALL STATE AGENCIES, UNIVERSITIES AND SCHOOL DISTRICTS SHALL PURCHASE AT LEAST TEN PER CENT OF THEIR ENERGY REQUIREMENTS IN PUBLIC BUILDINGS THAT THEY ADMINISTER FROM RENEWABLE SOURCES AND NONPOLLUTING ENERGY SOURCES THAT INCLUDE SOLAR, WIND, BIOMASS, COMBINED HEAT AND POWER, LANDFILL GAS AND LOW IMPACT HYDROELECTRIC GENERATION PLANTS OF LESS THAN TWO MEGAWATT CAPACITY.

H. ALL NEW OR LEASED STATE BUILDINGS SHALL CONFORM TO THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL IN A MANNER PRESCRIBED BY THE DEPARTMENT OF COMMERCE ENERGY OFFICE. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL MONITOR THE UNITED STATES GREEN BUILDING COUNCIL FOR CHANGES TO THE RATING SYSTEM THAT IMPACT STATE BUILDINGS.

Sec. 12. Repeal

Section 34-453, Arizona Revised Statutes, is repealed.

Sec. 13. Section 34-454, Arizona Revised Statutes, is amended to read:

34-454. Establishment and use of life cycle cost methods and procedures; definition

A. The director of the department of administration, in consultation with the department of commerce, shall establish practical and effective present value methods for estimating and comparing life cycle costs for state capital projects, INCLUDING CAPITAL PROJECTS OF THE SCHOOL FACILITIES BOARD UNDER TITLE 15, CHAPTER 16, using the sum of all capital and operating

1 expenses associated with the energy system of the building involved over the
 2 expected life of the system or during a period of twenty-five years,
 3 whichever is shorter, and using average fuel costs and a discount rate
 4 determined by the director. The director shall develop and prescribe the
 5 procedures to be followed in applying and implementing the methods and
 6 procedures established by this subsection.

7 B. The design of new capital projects and the application of energy
 8 ~~conservation~~ SAVINGS AND RENEWABLE ENERGY measures to existing capital
 9 projects shall be made using life cycle cost methods and procedures
 10 established pursuant to subsection A.

11 C. In leasing buildings preference shall be given to buildings which
 12 minimize life cycle costs.

13 D. For the purposes of this section, "life cycle cost" means the total
 14 cost of owning, operating and maintaining a building over its useful life,
 15 including such costs as fuel, energy, labor and replacement components
 16 determined on the basis of a systematic evaluation and comparison of
 17 alternative building systems, except that in the case of leased buildings,
 18 the life cycle costs shall be calculated over the effective remaining term of
 19 the lease.

20 Sec. 14. Section 34-455, Arizona Revised Statutes, is amended to read:

21 34-455. Performance contracting; definitions

22 A. The department of administration, WITH TECHNICAL SUPPORT FROM THE
 23 DEPARTMENT OF COMMERCE ENERGY OFFICE, shall develop and implement a program
 24 to enter into performance contracts ~~solely~~ for the purpose of achieving
 25 energy savings as measured in dollars and benefits ancillary to that purpose.
 26 PERFORMANCE CONTRACTS MAY ALSO BE USED TO REDUCE WATER CONSUMPTION AND WATER
 27 COSTS, TO REDUCE SEWER COSTS AND FOR RAINWATER HARVESTING SYSTEMS. WATER AND
 28 SEWER MEASURES MAY BE COMBINED WITH ENERGY MEASURES IN THE SAME PERFORMANCE
 29 CONTRACT, OR WATER AND SEWER MEASURES MAY BE INCLUDED IN A SEPARATE WATER
 30 SAVINGS PERFORMANCE CONTRACT.

31 B. Each contract may be for a period of not more than the expected
 32 life of the energy savings OR RENEWABLE ENERGY measures implemented or
 33 twenty-five years, whichever is shorter. The contract shall provide that the
 34 energy and operational savings generated cover all costs, after accounting
 35 for any financial incentives or assistance provided by utilities, associated
 36 with implementation of energy ~~conservation~~ SAVINGS OR RENEWABLE ENERGY
 37 measures to include audits, design equipment, purchase and installation,
 38 metering, interest on monies borrowed and training, and the contract shall
 39 include contractor profit. The contractor shall recover an amount not to
 40 exceed the summation of these costs and the agreed upon profit. Energy
 41 dollar savings realized as a result of a performance contract under this
 42 section shall be shared at a negotiated rate between the state and the
 43 contractor, until such time as the contractor has recovered the amount
 44 specified in the contract, at which time all savings shall accrue to the
 45 state. Interest rates charged on each contract shall be mutually agreed upon

1 by the department of administration and the contractor. Contracts shall
 2 contain contingency provisions agreed upon by the department and the
 3 contractor for cases where measured energy dollar savings do not meet
 4 predicted energy dollar savings.

5 ~~B.~~ C. For the purposes of this section:

6 1. "Combined heat and power" means any system that simultaneously or
 7 sequentially generates both electric or mechanical energy and useful thermal
 8 energy using the same unit of fuel.

9 2. "Energy dollar savings" means a reduction in the cost of energy,
 10 from a base energy cost established through a methodology set forth in the
 11 contract, utilized in an existing or new state owned or leased building as a
 12 result of either:

13 (a) The lease or purchase of operating equipment by the state or
 14 contractor, improvements made, altered operation and maintenance, technical
 15 services provided or renewable energy sources utilized.

16 (b) The increased efficient use of existing energy sources by
 17 cogeneration or combined heat and power.

18 Sec. 15. Repeal

19 Section 34-456, Arizona Revised Statutes, is repealed.

20 Sec. 16. Title 41, chapter 10, article 1, Arizona Revised Statutes, is
 21 amended by adding section 41-1511, to read:

22 41-1511. Energy efficient buildings; report; definition

23 A. IT IS THE POLICY OF THIS STATE TO PROMOTE THE CONSTRUCTION OF
 24 ENERGY EFFICIENT BUILDINGS. THE INTERNATIONAL ENERGY CONSERVATION CODE IS
 25 RECOGNIZED AS THE VOLUNTARY STATE ENERGY CODE. IN ORDER TO ACCOMPLISH THE
 26 CONSTRUCTION OF ENERGY EFFICIENT RESIDENTIAL AND COMMERCIAL BUILDINGS, THE
 27 FOLLOWING STATEWIDE GOALS ARE ESTABLISHED:

YEAR	PERCENTAGE BY WHICH NEW BUILDINGS ON AVERAGE MUST BE MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE
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2012	15%
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2016	30%
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2020	50%
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36 B. THE DEPARTMENT OF COMMERCE ENERGY OFFICE SHALL TRACK THE NUMBER OF
 37 ENERGY EFFICIENT BUILDINGS THAT ARE CONSTRUCTED IN THIS STATE.

38 C. MUNICIPALITIES AND COUNTIES THAT COMPILE DATA ON ENERGY EFFICIENT
 39 BUILDINGS PURSUANT TO SECTIONS 9-469 AND 11-324 SHALL PROVIDE THAT
 40 INFORMATION TO THE ENERGY OFFICE ON OR BEFORE FEBRUARY 1 OF EACH YEAR AS
 41 PRESCRIBED BY THE ENERGY OFFICE.

42 D. BEGINNING IN 2010, THE ENERGY OFFICE SHALL SUBMIT TO THE
 43 LEGISLATURE AN ANNUAL REPORT OF INFORMATION COLLECTED PURSUANT TO SUBSECTIONS
 44 B AND C OF THIS SECTION, A DETERMINATION OF THE NUMBER AND PERCENTAGE OF
 45 ENERGY EFFICIENT BUILDINGS CONSTRUCTED IN THE PRECEDING YEAR AND AN ESTIMATE

1 OF THE PERCENTAGE THAT ALL NEW BUILDINGS ON AVERAGE WERE MORE ENERGY
2 EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE. THE REPORT
3 MAY ONLY INCLUDE AGGREGATE INFORMATION WITH RESPECT TO SPECIFIC BUILDERS.

4 E. IN ADDITION TO THE REPORT REQUIRED BY SUBSECTION D OF THIS SECTION,
5 THE ENERGY OFFICE SHALL MAKE AN ANNUAL PRESENTATION TO THE HOUSE OF
6 REPRESENTATIVES COMMITTEE ON WATER AND AGRICULTURE AND THE SENATE COMMITTEE
7 ON NATURAL RESOURCES AND RURAL AFFAIRS, OR THEIR SUCCESSOR COMMITTEES.

8 F. FOR THE PURPOSES OF THIS SECTION, "ENERGY EFFICIENT BUILDING" MEANS
9 NEW RESIDENTIAL AND COMMERCIAL BUILDINGS THAT MEET OR EXCEED THE ENERGY
10 EFFICIENCIES PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
11 ENERGY STAR PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
12 GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING
13 COUNCIL, OR AN EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST
14 FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY
15 CONSERVATION CODE.

16 Sec. 17. Section 41-2121, Arizona Revised Statutes, is amended to
17 read:

18 41-2121. Definitions

19 In this article, unless the context otherwise requires:

20 1. "Area A" has the same meaning prescribed in section 49-541.

21 2. "Area B" has the same meaning prescribed in section 49-541.

22 3. "Area C" means that portion of Pinal county lying west of range 11
23 east, excluding that portion of the county lying within area A as defined in
24 section 49 541 and that portion of the county within the jurisdiction of any
25 Indian tribe, band, group or community that is recognized by the United
26 States secretary of the interior and that exercises governmental authority
27 within the limits of any Indian reservation under the jurisdiction of the
28 United States government, notwithstanding the issuance of any patent and
29 including rights of way running through the reservation.

30 4. "Fleet owner" means a registered owner or lessee of at least
31 twenty-five vehicles.

32 5. "FUEL EMISSION BASELINE" MEANS THE AVERAGE LIFE CYCLE GREENHOUSE
33 GAS EMISSIONS PER UNIT OF ENERGY OF THE AVERAGE OF CONVENTIONAL
34 TRANSPORTATION FUELS IN COMMERCE IN THIS STATE DURING THE PERIOD OF CALENDAR
35 YEARS 2005 THROUGH 2007.

36 ~~5-~~ 6. "Gasoline" means a volatile, highly flammable liquid mixture of
37 hydrocarbons that does not contain more than five one-hundredths grams of
38 lead for each United States gallon, that is produced, refined, manufactured,
39 blended, distilled or compounded from petroleum, natural gas, oil, shale oils
40 or coal and other flammable liquids free from undissolved water, sediment or
41 suspended matter, with or without additives, and that is commonly used as a
42 fuel for spark ignition internal combustion engines. Gasoline does not
43 include diesel fuel or the ethanol blend E85 as defined in ASTM D5798-99.

1 7. "GREENHOUSE GAS" MEANS ANY OF THE FOLLOWING:

2 (a) CARBON DIOXIDE.

3 (b) METHANE.

4 (c) NITROUS OXIDE.

5 (d) HYDROFLUOROCARBONS.

6 (e) PERFLUOROCARBONS.

7 (f) SULFUR HEXAFLUORIDE.

8 8. "LIFE CYCLE GREENHOUSE GAS EMISSIONS" MEANS, WITH RESPECT TO A
9 FUEL, THE AGGREGATE QUANTITY OF GREENHOUSE GASES EMITTED DURING PRODUCTION,
10 FEEDSTOCK EXTRACTION, DISTRIBUTION AND USE OF THE FUEL, AS DETERMINED BY THE
11 DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

12 ~~6-~~ 9. "Manufacturer's proving ground" means a facility whose sole
13 purpose is to develop complete advanced vehicles for an automotive
14 manufacturer.

15 ~~7-~~ 10. "Motor vehicle racing event" means a race that uses unlicensed
16 vehicles that are designed and manufactured specifically for racing purposes
17 and that is conducted on a public or private racecourse for the entertainment
18 of the general public. A motor vehicle racing event includes practice,
19 qualifying and demonstration laps conducted as part of the activities related
20 to a motor vehicle race.

21 ~~8-~~ 11. "Oxygenate" means any oxygen-containing ashless, organic
22 compound, including aliphatic alcohols and aliphatic ethers, that may be used
23 as a fuel or as a gasoline blending component and that is approved as a
24 blending agent under the provisions of a waiver issued by the United States
25 environmental protection agency pursuant to 42 United States Code section
26 7545(f).

27 ~~9-~~ 12. "Oxygenated fuel" means an unleaded motor fuel blend that
28 consists primarily of gasoline and at least one and one-half per cent by
29 weight of one or more oxygenates and that has been blended consistent with
30 the provisions of a waiver issued by the United States environmental
31 protection agency pursuant to 42 United States Code section 7545(f).

32 ~~10-~~ 13. "Product transfer document" means any bill of lading, loading
33 ticket, manifest, delivery receipt, invoice or other documentation used on
34 any occasion when a person transfers custody or title of motor fuel other
35 than when motor fuel is sold or dispensed at a service station or fleet
36 vehicle fueling facility.

37 ~~11-~~ 14. "Supplier" means any person who imports gasoline into a
38 vehicle emissions control area by means of a pipeline or in truckload
39 quantities for the person's own use within the vehicle emissions control area
40 or any person who sells gasoline intended for ultimate consumption within a
41 vehicle emissions control area, except that supplier does not mean a person
42 with respect to gasoline supplied or sold by the person to another for resale
43 to a retailer within a vehicle emissions control area or to a fleet owner for
44 consumption within a vehicle emissions control area.

~~12-~~ 15. "Vehicle emissions control area" has the same meaning prescribed in section 49-541, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

Sec. 18. Title 41, chapter 15, article 6, Arizona Revised Statutes, is amended by adding sections 41-2122.02 and 41-2122.03, to read:

41-2122.02. Motor fuels; life cycle greenhouse gas emissions; study; report

A. THE DEPARTMENT OF ENVIRONMENTAL QUALITY, IN COOPERATION WITH THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES, SHALL CONDUCT A STUDY ON THE TECHNICAL FEASIBILITY AND COST EFFECTIVENESS OF REDUCING THE LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS SHIPPED TO AND SOLD OR OFFERED FOR SALE IN THIS STATE. THE STUDY SHALL TAKE INTO ACCOUNT ANY RESEARCH CONDUCTED UNDER CALIFORNIA EXECUTIVE ORDER S-01-07 AND SHALL INCLUDE CONSIDERATION AND ANALYSIS OF ALL OF THE FOLLOWING FACTORS:

1. THE COST OF PRODUCING AND DELIVERING MOTOR FUELS WITH LIFE CYCLE GREENHOUSE GAS EMISSIONS BELOW THE FUEL EMISSIONS BASELINE.

2. THE IMPACT OF REDUCTIONS IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS ON ALL OF THE FOLLOWING:

(a) THE ABILITY TO PRODUCE MOTOR FUELS FOR THIS STATE.

(b) THE SUPPLY OF MOTOR FUELS TO THIS STATE.

(c) THE COST TO CONSUMERS AND BUSINESSES OF MOTOR FUELS SOLD IN THIS STATE.

(d) TOTAL EMISSIONS OF GREENHOUSE GASES AND THE IMPACT ON THE ENVIRONMENT FROM THOSE EMISSIONS.

3. METHODS FOR ENCOURAGING VOLUNTARY EARLY REDUCTIONS IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS.

4. METHODS FOR ENSURING THAT REDUCTIONS IN LIFECYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS DO NOT DISPROPORTIONATELY AFFECT LOW-INCOME COMMUNITIES.

5. METHODS FOR ENSURING THAT REDUCTIONS IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS COMPLEMENT AND DO NOT INTERFERE WITH ACHIEVING AND MAINTAINING COMPLIANCE WITH NATIONAL, STATE AND LOCAL AMBIENT AIR QUALITY STANDARDS.

6. OVERALL SOCIETAL BENEFITS FROM REDUCING LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS, INCLUDING REDUCTIONS IN OTHER AIR POLLUTANTS, DIVERSIFICATION OF ENERGY SOURCES AND OTHER BENEFITS TO THE ECONOMY, ENVIRONMENT AND PUBLIC HEALTH AND WELFARE.

7. METHODS FOR MINIMIZING THE ADMINISTRATIVE BURDENS OF PROGRAMS DESIGNED TO REDUCE LIFE CYCLE GREENHOUSE GAS EMISSIONS.

8. METHODS FOR ENSURING THAT REDUCTIONS IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS USED IN THIS STATE ARE NOT OFFSET BY INCREASED EMISSIONS OF GREENHOUSE GASES OUTSIDE THIS STATE.

9. THE SIGNIFICANCE OF THE CONTRIBUTION OF EACH SOURCE OR CATEGORY OF SOURCES OF GREENHOUSE GAS EMISSIONS TO THE STATEWIDE GREENHOUSE GAS EMISSIONS TOTAL.

B. ON OR BEFORE DECEMBER 31, 2010, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PUBLISH A REPORT OF ITS FINDINGS AND RECOMMENDATIONS RESULTING FROM THE STUDY CONDUCTED PURSUANT TO THIS SECTION. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL SUBMIT THE REPORT TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. BEFORE THE DELIVERY OF THE REPORT, THE DIRECTOR SHALL CONDUCT AT LEAST ONE PUBLIC MEETING IN ORDER TO PRESENT THE REPORT TO MEMBERS OF THE GENERAL PUBLIC AND SHALL RECEIVE PUBLIC COMMENTS IN WRITING AND ORALLY AT THE MEETING.

41-2122.03. Standards for low carbon fuel; rules; credits; requirements; exceptions; enforcement

A. IF THE UNITED STATES CONGRESS FAILS TO ENACT A NATIONAL LOW CARBON FUEL STANDARD THAT REQUIRES A REDUCTION IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS ON OR BEFORE DECEMBER 31, 2011 AND IF THE LEGISLATURE FAILS TO ENACT A STATE LOW CARBON FUEL STANDARD THAT REQUIRES A REDUCTION IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS ON OR BEFORE DECEMBER 31, 2011, THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, IN COOPERATION WITH THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES, SHALL PROPOSE RULES SETTING A LOW CARBON FUEL STANDARD NO EARLIER THAN DECEMBER 31, 2011 AND NO LATER THAN DECEMBER 31, 2012. THE LOW CARBON FUEL STANDARD SHALL REQUIRE A REDUCTION IN LIFE CYCLE GREENHOUSE GAS EMISSIONS FROM MOTOR FUELS SHIPPED TO AND SOLD OR OFFERED FOR SALE IN THIS STATE. THE RULES SHALL APPLY TO ALL REFINERS, BLENTERS, PRODUCERS OR IMPORTERS THAT SUPPLY MOTOR FUELS TO THIS STATE AND SHALL INCLUDE MARKET-BASED METHODS BY WHICH SUPPLIERS THAT EXCEED THE REDUCTION REQUIREMENTS SHALL RECEIVE CREDITS THAT MAY BE APPLIED TO FUTURE OBLIGATIONS OR TRADED TO OTHER SUPPLIERS. THE RULES SHALL REQUIRE THE REDUCTION OF LIFE CYCLE GREENHOUSE GAS EMISSIONS TO A LEVEL THAT IS, AS DETERMINED BY THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, TO THE MAXIMUM EXTENT PRACTICABLE:

1. BY CALENDAR YEAR 2015, SUBSTANTIALLY EQUIVALENT TO AT LEAST FIVE PER CENT BELOW THE FUEL EMISSION BASELINE.

2. BY CALENDAR YEAR 2020, SUBSTANTIALLY EQUIVALENT TO AT LEAST TEN PER CENT BELOW THE FUEL EMISSION BASELINE.

B. A PERSON WHO IS SUBJECT TO THE RULES ADOPTED UNDER THIS SECTION MAY APPLY TO THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO RECEIVE A TEMPORARY SUSPENSION OF THE REQUIREMENT TO COMPLY WITH THE RULES IF THE PERSON DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT EVENTS OUTSIDE OF THE CONTROL OF THE PERSON COULD LEAD TO OR HAVE LED TO DISRUPTIONS IN THIS STATE'S FUEL SUPPLY.

1 C. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY MAY ENFORCE
2 THIS SECTION IN THE SAME MANNER AS ANY REQUIREMENT ESTABLISHED BY OR ADOPTED
3 UNDER TITLE 49, CHAPTER 3, ARTICLE 2.

4 Sec. 19. Section 41-3953, Arizona Revised Statutes, is amended to
5 read:

6 41-3953. Department powers and duties

7 A. The department is responsible for establishing policies, procedures
8 and programs that the department is authorized to conduct to address the
9 affordable housing issues confronting this state, including housing issues of
10 low income families, moderate income families, housing affordability, special
11 needs populations and decaying housing stock. Among other things, the
12 department shall provide to qualified housing participants and political
13 subdivisions of this state financial, advisory, consultative, planning,
14 training and educational assistance for the development of safe, decent and
15 affordable housing, including housing for low and moderate income households.

16 B. Under the direction of the director, the department shall:

17 1. Establish guidelines applicable to the programs and activities of
18 the department for the construction and financing of affordable housing and
19 housing for low and moderate income households in this state. GUIDELINES
20 ESTABLISHED PURSUANT TO THIS PARAGRAPH DO NOT APPLY TO THE DEPARTMENT'S
21 ACTIVITIES PRESCRIBED IN SECTION 35-726, SUBSECTION E. These guidelines
22 shall:

23 (a) Meet or exceed all applicable state or local building and health
24 and safety code requirements and, if applicable, the national manufactured
25 home construction and safety standards act of 1974 and title VI of the
26 housing and community development act of 1974 (P.L. 93-383, as amended by
27 P.L. 95-128, 96-153 and 96-339). ~~Guidelines established pursuant to this~~
28 ~~paragraph do not apply to the department's activities prescribed in section~~
29 ~~35-726, subsection E.~~

30 (b) REQUIRE THAT ALL NEW MULTIFAMILY CONSTRUCTION FUNDED IN WHOLE OR
31 IN PART THROUGH THE DEPARTMENT MEET AT LEAST THE MINIMUM REQUIREMENTS FOR
32 DESIGNATION AS A UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR
33 QUALIFIED HOME AND HAVE NO ROOM PRESSURES GENERATED BY THE AIR HANDLER
34 GREATER THAN A MAGNITUDE OF PLUS OR MINUS 3.0 PASCALS RELATIVE TO THE OUTSIDE
35 IN ANY ZONE OF THE HOUSE.

36 (c) PROVIDE THAT AN ENERGY STAR QUALIFIED HOME MUST AT LEAST MEET
37 GUIDELINES FOR ENERGY EFFICIENCY SET BY THE UNITED STATES ENVIRONMENTAL
38 PROTECTION AGENCY, BE AT LEAST FIFTEEN PER CENT MORE ENERGY EFFICIENT THAN
39 HOMES BUILT TO THE 2004 INTERNATIONAL RESIDENTIAL CODE AND INCLUDE ADDITIONAL
40 ENERGY SAVING FEATURES THAT TYPICALLY MAKE THEM TWENTY TO THIRTY PER CENT
41 MORE EFFICIENT THAN STANDARD HOMES.

42 2. Provide staff support to the Arizona housing commission and
43 coordinate its activities.

44 3. Accept and allocate any monies as from time to time may be
45 appropriated by the legislature for the purposes set forth in this article.

1 4. Perform other duties necessary to administer this chapter.

2 5. Perform the duties prescribed in sections 35-726, 35-728 and 35-913
3 and chapter 4.3 of this title.

4 6. Stimulate and encourage all local, state, regional and federal
5 governmental agencies and all private persons and enterprises that have
6 similar and related objectives and purposes, cooperate with the agencies,
7 persons and enterprises and correlate department plans, programs and
8 operations with those of the agencies, persons and enterprises.

9 7. Conduct research on its own initiative or at the request of the
10 governor, the legislature or state or local agencies pertaining to any
11 department objectives.

12 8. Provide information and advice on request of any local, state or
13 federal agencies, private persons and business enterprises on matters within
14 the scope of department activities.

15 9. Consult with and make recommendations to the governor and the
16 legislature on all matters concerning department objectives.

17 10. Make annual reports to the governor and the legislature on its
18 activities, including the geographic location of its activities, its finances
19 and the scope of its operations.

20 C. Under the direction of the director, the department may:

21 1. Assist in securing construction and mortgage financing from public
22 and private sector sources.

23 2. Assist mortgage financing programs established by industrial
24 development authorities and political subdivisions of this state.

25 3. Assist in the acquisition and use of federal housing assistance
26 programs pertinent to enhance the economic feasibility of a proposed
27 residential development.

28 4. Assist in the compliance of a proposed residential development with
29 applicable federal, state and local codes and ordinances.

30 5. Prepare and publish planning and development guidelines for the
31 establishment and delivery of housing assistance programs.

32 6. Contract with a federal agency to carry out financial work on the
33 federal agency's behalf and accept payment for the work.

34 7. Subcontract for the financial work prescribed in paragraph 6 of
35 this subsection and make payments for that subcontracted work based on the
36 expectation that the federal agency will pay for that work.

37 8. Accept payment from a federal agency for work prescribed in
38 paragraph 6 of this subsection and deposit those payments in the Arizona
39 department of housing program fund established by section 41-3957.

40 9. Contract for the services of outside advisers, consultants and
41 aides reasonably necessary or desirable to enable the department to
42 adequately perform its duties.

43 10. Contract and incur obligations reasonably necessary or desirable
44 within the general scope of department activities and operations to enable
45 the department to adequately perform its duties.

1 11. Use any media of communication, publication and exhibition in the
2 dissemination of information, advertising and publicity in any field of its
3 purposes, objectives or duties.

4 12. Adopt rules deemed necessary or desirable to govern its procedures
5 and business.

6 13. Contract with other agencies in furtherance of any department
7 program.

8 14. Use monies, facilities or services to provide contributions under
9 federal or other programs that further the objectives and programs of the
10 department.

11 15. Accept gifts, grants, matching monies or direct payments from
12 public or private agencies or private persons and enterprises for the conduct
13 of programs that are consistent with the general purposes and objectives of
14 this article and deposit these monies in the Arizona department of housing
15 program fund established by section 41-3957.

16 16. Establish and collect fees and receive reimbursement of costs in
17 connection with any programs or duties performed by the department and
18 deposit the fees and cost reimbursements in the Arizona department of housing
19 program fund established by section 41-3957.

20 17. Provide staff support to the Arizona housing finance authority and
21 coordinate its activities.

22 D. For the purposes of this section, the department is exempt from
23 chapter 23 of this title.

24 E. The department is the designated state public housing agency as
25 defined in the United States housing act of 1937 (42 United States Code
26 sections 1401 through 1440) for the purpose of accepting federal housing
27 assistance monies and may participate in the housing assistance payments
28 program. Federal monies may be secured for all areas of this state subject
29 only to the limitations prescribed in subsection F of this section.

30 F. For areas of this state where an existing public housing authority
31 has not been established pursuant to section 36-1404, subsection A, the
32 department acting as a public housing agency may undertake all activities
33 under the section 8 tenant-based rental housing assistance payment program,
34 except that the department shall not undertake a section 8 tenant-based
35 rental housing assistance payment program within the boundaries of a city,
36 town or county unless authorized by resolution of the governing body of the
37 city, town or county. If the department accepts monies for a section 8
38 tenant-based rental housing assistance payment program for areas of this
39 state where an existing public housing authority has been established
40 pursuant to section 36-1404, subsection A, the department shall only accept
41 and secure federal monies to provide housing for the seriously mentally ill
42 or other disabled populations. The department may accept and secure federal
43 monies for undertaking all contract administrator activities authorized under
44 a section 8 project-based rental housing assistance payment program in all

1 areas of this state and this participation does not require the authorization
2 of any local governing body.

3 G. The department shall not itself directly own, construct, operate or
4 rehabilitate any housing units, except as may be necessary to protect the
5 department's collateral or security interest arising out of any department
6 programs.

7 H. Notwithstanding any other provision of this section, the department
8 may obligate monies as loans or grants applicable to programs and activities
9 of the department for the purpose of providing housing opportunities for low
10 or moderate income households or for housing affordability or to prevent or
11 combat decaying housing stock. Unless otherwise required by federal or state
12 law, any loan repayments shall be deposited in the Arizona department of
13 housing program fund established by section 41-3957.

14 I. For any construction project financed by the department pursuant to
15 subsection C, except for contract administration activities in connection
16 with the project-based section 8 program, the department shall notify a city,
17 town, county or tribal government that a project is planned for its
18 jurisdiction and, before proceeding, shall seek comment from the governing
19 body of the city, town, county or tribal government or an official authorized
20 by the governing body of the city, town, county or tribal government. The
21 department shall not interfere with or attempt to override the local
22 jurisdiction's planning, zoning or land use regulations.

23 Sec. 20. Section 42-11054, Arizona Revised Statutes, is amended to
24 read:

25 42-11054. Standard appraisal methods and techniques

26 A. Subject to subsection B of this section, the department shall:

27 1. Prescribe guidelines for applying standard appraisal methods and
28 techniques that shall be used by the department and county assessors in
29 determining the valuation of property.

30 2. Prepare and maintain manuals and other necessary guidelines,
31 consistent with this section, reflecting the standard methods and techniques
32 to perpetuate a current inventory of taxable property and the valuation of
33 that property.

34 B. Before they are adopted, the department shall submit each
35 substantive proposed guideline, table and manual that is developed, amended
36 or otherwise modified from and after December 31, 2006 to the joint
37 legislative oversight committee on property tax assessment and appeals. The
38 department shall not finally adopt, amend or otherwise modify a substantive
39 guideline, table or manual for at least thirty days after submitting the
40 measure to the committee. The committee may hold one or more informational
41 hearings on the proposed measure within thirty days after submission. In
42 adopting, amending or modifying the measure the department shall consider the
43 committee's comments. If the committee fails to hold a hearing within thirty
44 days after submission, the department may adopt, amend or modify the measure
45 without further consideration.

1 C. In applying prescribed standard appraisal methods and techniques:
 2 1. Current usage shall be included in the formula for reaching a
 3 determination of full cash value.

4 2. Solar energy devices, as defined in section 44-1761, and any other
 5 device or system designed for the production of solar energy PRIMARILY for
 6 on-site consumption, INCLUDING GRID-TIED SOLAR PHOTOVOLTAIC SYSTEMS, are
 7 considered to add no value to the property.

8 3. THE INCLUSION OR ADDITION OF HIGHLY ENERGY EFFICIENT BUILDING
 9 COMPONENTS, RENEWABLE ENERGY EQUIPMENT OR A COMBINED HEAT AND POWER SYSTEM TO
 10 A BUILDING IS CONSIDERED TO ADD NO ADDITIONAL VALUE TO THE PROPERTY. FOR THE
 11 PURPOSES OF THIS PARAGRAPH:

12 (a) "COMBINED HEAT AND POWER SYSTEM" MEANS THE SIMULTANEOUS OR
 13 SEQUENTIAL GENERATION OF ELECTRICAL OR MECHANICAL ENERGY AND USEFUL THERMAL
 14 ENERGY USING THE SAME UNIT OF FUEL, WITH A TOTAL FUEL EFFICIENCY OF SEVENTY
 15 PER CENT OR GREATER. THE EQUIPMENT OR SYSTEM MUST DEMONSTRATE, OR BE
 16 CERTIFIED TO BE CAPABLE OF, AT LEAST SEVENTY PER CENT TOTAL FUEL EFFICIENCY
 17 CAPABILITY.

18 (b) "HIGHLY ENERGY EFFICIENT BUILDING" MEANS HIGH PERFORMANCE
 19 SUSTAINABLE BUILDING COMPONENTS INSTALLED IN NEW RESIDENTIAL AND COMMERCIAL
 20 BUILDINGS SO THAT THE BUILDINGS MEET OR EXCEED THE ENERGY EFFICIENCIES
 21 PRESCRIBED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ENERGY STAR
 22 PROGRAM OR BY A LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN GREEN BUILDING
 23 RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING COUNCIL, OR AN
 24 EQUIVALENT GREEN BUILDING STANDARD, OR THAT ARE AT LEAST FIFTEEN PER CENT
 25 MORE ENERGY EFFICIENT THAN THE 2006 INTERNATIONAL ENERGY CONSERVATION CODE.

26 (c) "RENEWABLE ENERGY EQUIPMENT" MEANS WIND ENERGY OR BIOMASS ENERGY
 27 EQUIPMENT DESIGNED FOR THE PRODUCTION OF RENEWABLE ENERGY PRIMARILY FOR
 28 ON-SITE CONSUMPTION.

29 D. If the methods and techniques prescribe using market data as an
 30 indication of market value, the price paid for future anticipated property
 31 value increments shall be excluded.

32 E. For purposes of determining full cash value, the department and
 33 county assessors shall use and apply the ratio standard guidelines issued by
 34 the department for tax year 1993 in the same manner as they were applied in
 35 tax year 1993. This subsection does not apply to property that is valued
 36 according to prescribed statutory methods or to property for which values are
 37 determined in the year after an appeal pursuant to section 42-16002.

38 Sec. 21. Section 44-1375.02, Arizona Revised Statutes, is amended to
 39 read:

40 44-1375.02. Standards

41 A. Except as provided in subsection ~~B~~ C, the following standards
 42 apply beginning January 1, 2008:

43 1. Automatic commercial icemakers shall meet the requirements of
 44 section 1605.3 of the California Code of Regulations, title 20: division 2,

1 chapter 4, article 4, in effect on ~~the effective date of this article~~ AUGUST
2 12, 2005.

3 2. Commercial clothes washers shall meet the requirements of section
4 1605.3 of the California Code of Regulations, title 20: division 2, chapter
5 4, article 4, in effect on ~~the effective date of this article~~ AUGUST 12,
6 2005.

7 3. Commercial prerinse spray valves shall have a flow rate equal to or
8 less than 1.6 gallons per minute.

9 4. Commercial refrigerators, freezers and refrigerator freezers shall
10 meet the requirements of section 1605.3 of the California Code of
11 Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the~~
12 ~~effective date of this article~~ AUGUST 12, 2005, except that pulldown
13 refrigerators with transparent doors shall meet a requirement five per cent
14 less stringent than shown in the California regulations.

15 5. Illuminated exit signs shall have an input power demand of five
16 watts or less per illuminated face and shall either have a power factor of at
17 least 0.70 or meet the power factor product specification of the energy star
18 program requirements, whichever is higher.

19 6. Large packaged air conditioning equipment shall meet a minimum
20 energy efficiency ratio of 10.0 for air conditioning without an integrated
21 heating component or with electric resistance heating integrated into the
22 unit, 9.8 for air conditioning with heating other than electric resistance
23 integrated into the unit, 9.5 for air conditioning heat pumps without an
24 integrated heating component or with electric resistance heating integrated
25 into the unit and 9.3 for air conditioning heat pump equipment with heating
26 other than electric resistance integrated into the unit. Large packaged air
27 conditioning heat pumps shall meet a minimum coefficient of performance in
28 the heating mode of 3.2 measured at a high temperature rating of forty-seven
29 degrees Fahrenheit.

30 7. ~~THROUGH DECEMBER 31, 2010,~~ low voltage dry type distribution
31 transformers shall meet the class 1 efficiency levels for low voltage
32 distribution transformers specified in table 4-2 of the guide for determining
33 energy efficiency for distribution transformers, published by the national
34 electrical manufacturers association (NEMA standard TP-1-2002), in effect on
35 ~~the effective date of this article~~ AUGUST 12, 2005. ~~BEGINNING JANUARY 1,~~
36 ~~2011, THESE TRANSFORMERS MUST MEET THE REQUIREMENTS OF SECTION 1605.3 OF THE~~
37 ~~CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER 4, ARTICLE 4,~~
38 ~~IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.~~

39 8. Metal halide lamp fixtures designed to be operated with lamps rated
40 greater than or equal to one hundred fifty watts but less than or equal to
41 five hundred watts shall not contain a probe start metal ~~halid~~ HALIDE lamp
42 ballast.

43 9. Single voltage external AC to DC power supplies shall meet the tier
44 one energy efficiency requirements of section 1605.3 of the California Code
45 of Regulations, title 20: division 2, chapter 4, article 4, in effect on ~~the~~

1 ~~effective date of this article~~ AUGUST 12, 2005. This standard applies to
2 single voltage AC to DC power supplies that are sold individually and to
3 those that are sold as a component of or in conjunction with another product.

4 10. Torchieres shall not use more than one hundred ninety watts. A
5 torchiere shall be deemed to use more than one hundred ninety watts if any
6 commercially available lamp or combination of lamps can be inserted in its
7 socket and cause the torchiere to draw more than one hundred ninety watts
8 when operated at full brightness.

9 11. Traffic signal modules shall meet the product specification of the
10 energy star program requirements for traffic signals developed by the United
11 States environmental protection agency that took effect in February 2001,
12 shall have a power factor of at least 0.90 and shall be installed with
13 compatible, electrically connected signal control interface devices and
14 conflict monitoring systems.

15 12. Unit heaters shall be equipped with an intermittent ignition device
16 and shall have either power venting or an automatic flue damper.

17 B. BEGINNING JANUARY 1, 2011, THE FOLLOWING STANDARDS APPLY:

18 1. WINE CHILLERS SHALL MEET THE REQUIREMENTS OF SECTION 1605.3 OF THE
19 CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER 4, ARTICLE 4,
20 IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

21 2. PLUMBING FITTINGS AND FIXTURES SHALL MEET THE REQUIREMENTS OF
22 SECTION 1605.1 OR 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20:
23 DIVISION 2, CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS
24 AMENDMENT TO THIS SECTION.

25 3. CENTRAL AIR CONDITIONERS AND HEAT PUMPS SHALL MEET THE REQUIREMENTS
26 OF SECTION 1605.1, 1605.2 OR 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS,
27 TITLE 20: DIVISION 2, CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE
28 OF THIS AMENDMENT TO THIS SECTION.

29 4. ROOM AIR CONDITIONERS, ROOM AIR CONDITIONING HEAT PUMPS, PACKAGED
30 TERMINAL AIR CONDITIONERS AND PACKAGED TERMINAL HEAT PUMPS SHALL MEET THE
31 REQUIREMENTS OF SECTION 1605.1 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE
32 20: DIVISION 2, CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS
33 AMENDMENT TO THIS SECTION.

34 5. COMPUTER ROOM AIR CONDITIONERS SHALL MEET THE REQUIREMENTS OF
35 SECTION 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2,
36 CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
37 THIS SECTION.

38 6. DISHWASHERS SHALL MEET THE REQUIREMENTS OF SECTION 1605.1 OF THE
39 CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER 4, ARTICLE 4,
40 IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

41 7. RESIDENTIAL CLOTHES WASHERS SHALL MEET THE REQUIREMENTS OF SECTION
42 1605.2 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
43 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
44 SECTION.

1 8. COMMERCIAL CLOTHES WASHERS SHALL MEET THE REQUIREMENTS OF SECTION
2 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
3 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
4 SECTION.

5 9. CLOTHES DRYERS SHALL MEET THE REQUIREMENTS OF SECTION 1605.1 OF THE
6 CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER 4, ARTICLE 4,
7 IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

8 10. CENTRAL FAN FURNACES, NOT INCLUDING RESIDENTIAL FURNACES FOR WHICH
9 THE FEDERAL GOVERNMENT SET STANDARDS IN 1986, SHALL MEET THE REQUIREMENTS OF
10 SECTION 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2,
11 CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
12 THIS SECTION.

13 11. GAS SPACE HEATERS SHALL MEET THE REQUIREMENTS OF SECTION 1605.1 OR
14 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
15 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
16 SECTION.

17 12. BOILERS, NOT INCLUDING RESIDENTIAL BOILERS FOR WHICH THE FEDERAL
18 GOVERNMENT SET STANDARDS IN 1986, SHALL MEET THE REQUIREMENTS OF SECTION
19 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
20 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
21 SECTION.

22 13. POOL HEATERS SHALL MEET THE REQUIREMENTS OF SECTION 1605.1 OR
23 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
24 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
25 SECTION.

26 14. PORTABLE ELECTRIC SPAS AND POOL PUMPS SHALL MEET THE REQUIREMENTS
27 OF SECTION 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION
28 2, CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
29 THIS SECTION.

30 15. FLUORESCENT LAMP BALLASTS SHALL MEET THE REQUIREMENTS OF SECTION
31 1605.1 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
32 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
33 SECTION.

34 16. GAS AND ELECTRIC WATER HEATERS SHALL MEET THE REQUIREMENTS OF
35 SECTION 1605.1 OR 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20:
36 DIVISION 2, CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS
37 AMENDMENT TO THIS SECTION.

38 17. BEVERAGE VENDING MACHINES SHALL MEET THE REQUIREMENTS OF SECTION
39 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
40 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
41 SECTION.

42 18. CONSUMER AUDIO AND VIDEO EQUIPMENT SHALL MEET THE REQUIREMENTS OF
43 SECTION 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2,
44 CHAPTER 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO
45 THIS SECTION.

1 19. GAS COOKING PRODUCTS WITH AN ELECTRICAL SUPPLY CORD SHALL NOT BE
2 EQUIPPED WITH A CONSTANT BURNING PILOT.

3 20. HOT FOOD HOLDING CABINETS SHALL MEET THE REQUIREMENTS OF SECTION
4 1605.3 OF THE CALIFORNIA CODE OF REGULATIONS, TITLE 20: DIVISION 2, CHAPTER
5 4, ARTICLE 4, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
6 SECTION.

7 ~~B.~~ C. The standards prescribed by subsection A apply beginning
8 January 1, 2010, if the product is a commercial refrigerator, freezer or
9 refrigerator freezer or large packaged air conditioning equipment.

10 ~~C.~~ D. Beginning on May 31, 2008, and every three years thereafter,
11 the department of commerce energy office shall conduct a comparative review
12 and assessment of the standards prescribed by subsection A and energy
13 efficiency standards adopted in other states. The department of commerce
14 energy office shall:

15 1. Submit a report of its findings and recommendations to the speaker
16 of the house of representatives and president of the senate.

17 2. Provide a copy of the report to the director of the Arizona state
18 library, archives and public records.

19 E. THE MOST CURRENT INTERNATIONAL ENERGY CONSERVATION CODE FOR
20 RESIDENTIAL CONSTRUCTION AND THE CURRENT AMERICAN SOCIETY OF HEATING,
21 REFRIGERATING AND AIR CONDITIONING ENERGY STANDARD FOR COMMERCIAL
22 CONSTRUCTION ARE THE VOLUNTARY STATE ENERGY CODE THAT SHALL BE REFERENCED TO
23 ALLOW THIS STATE TO PROVIDE INCENTIVES FOR THE USE OF ENERGY SAVINGS DEVICES
24 AND METHODS.

25 Sec. 22. Section 44-1551, Arizona Revised Statutes, is amended to
26 read:

27 44-1551. Definitions

28 In this article, unless the context otherwise requires:

29 1. "Affiliate" means a person who controls, is controlled BY or is
30 under common control with another person.

31 2. "BIOFUEL" MEANS A SOLID, LIQUID OR GASEOUS FUEL THAT IS DERIVED
32 FROM BIOMASS AND THAT IS USED FOR HEATING OR POWER OR FOR TRANSPORTATION AS A
33 MOTOR FUEL.

34 3. "BIOMASS" MEANS BIOLOGICAL MATERIAL, SUCH AS PLANT OR ANIMAL
35 MATTER, BUT EXCLUDING ORGANIC MATERIAL THAT HAS BEEN TRANSFORMED BY
36 GEOLOGICAL PROCESSES INTO SUBSTANCES SUCH AS COAL OR PETROLEUM OR THEIR
37 DERIVATIVES, THAT MAY BE TRANSFORMED INTO BIOFUEL.

38 ~~2.~~ 4. "Control" means actual or legal power of influence over another
39 person, whether direct or indirect, arising through direct or indirect
40 ownership of capital stock, interlocking directorates or officers,
41 contractual relations, agency agreements or leasing arrangements where the
42 result is used to affect or influence such persons.

43 ~~3.~~ 5. "Dealer" means any person engaged in the retail sale of
44 petroleum products supplied under a distributorship, franchise or other
45 agreement, entered into with a distributor.

~~4.~~ 6. "Distributor" means any person engaged in the sale, consignment or other distribution of petroleum products to dealers at retail outlets serving the general motoring public.

~~5.~~ 7. "Engaged in the sale of petroleum products" means, in the case of a dealer, that at least fifty per cent of the average annual gross revenue of the franchise is derived from the sale of petroleum products.

~~6.~~ 8. "Franchise" or "franchise agreement" means a written agreement between a distributor and a dealer under which the dealer is granted the right to use a trademark, trade name, service mark or other identifying symbol or name owned by the distributor, under which the dealer is granted the right to occupy premises owned, leased, or controlled by the distributor, for the purpose of engaging in the retail sale of petroleum products of the distributor.

~~7.~~ 9. "Good cause" means the failure of a dealer to comply with those express provisions of the franchise except any that may be unconscionable.

~~8.~~ 10. "Good faith" includes the duty of a party to act in a fair and equitable manner in the performance and in demanding performance of the franchise.

~~9.~~ 11. "Petroleum products" means motor vehicle fuels and lubricants.

~~10.~~ 12. "Retail sale of products" means the sale thereof for consumption and not for resale at a retail outlet serving the motoring public.

~~11.~~ 13. "Sale, transfer or assignment" means any disposition of a franchise or any interest therein, with or without consideration, to include but not BE limited to bequest, inheritance, gift, exchange, lease or license.

Sec. 23. Section 44-1554, Arizona Revised Statutes, is amended to read:

44-1554. Prohibited practices

It is a violation of this article for any distributor directly or indirectly or through any officer, agent or employee to engage in any of the following practices:

1. To prohibit directly or indirectly the right of free association among dealers for any lawful purpose.

2. To fail to act in good faith in performing or complying with any terms, ~~OR~~ provisions of or collateral to a franchise.

3. To terminate or cancel a franchise without good cause.

4. To use undue influence to induce a dealer to surrender any right given to the dealer by any provision contained in the franchise.

5. To cancel, terminate, fail to renew or to threaten the cancellation, termination or nonrenewal of any franchise because of the dealer's failure to purchase merchandise or products sold by the distributor ~~where~~ IF the requirement that the dealer sell exclusively the merchandise or products of the distributor would be a violation of any law, rule or regulation of this state or of the United States.

6. To change or modify any restrictions upon nonpetroleum related business activities of the gasoline dealer during the term of ~~his~~ THE franchise.

7. To unreasonably reduce, limit or curtail the supply of gasoline or other petroleum products to any dealer.

8. To cancel or terminate a franchise solely to secure for its own account the distributor's more successful or profitable franchise stations.

9. To place unreasonable restrictions upon nonpetroleum related business activities of the dealer.

10. EXCEPT IF REQUIRED TO PREVENT MISLABELING, MISBRANDING, WILFUL ADULTERATION OR TRADEMARK VIOLATIONS BY THE FRANCHISEE, TO PROHIBIT A FRANCHISEE FROM DOING ANY OF THE FOLLOWING:

(a) INSTALLING ON THE MARKETING PREMISES OF THE FRANCHISEE A BIOFUELS PUMP OR TANK, EXCEPT THAT THE FRANCHISEE'S FRANCHISOR MAY RESTRICT THE INSTALLATION OF A TANK ON LEASED MARKETING PREMISES OF THAT FRANCHISOR.

(b) CONVERTING AN EXISTING TANK OR PUMP ON THE MARKETING PREMISES OF THE FRANCHISEE FOR BIOFUELS USE, IF THAT TANK OR PUMP AND THE PIPING CONNECTING THEM ARE EITHER WARRANTED BY THE MANUFACTURER OR CERTIFIED BY A RECOGNIZED STANDARD SETTING ORGANIZATION TO BE SUITABLE FOR USE WITH THAT FUEL.

(c) ADVERTISING THE SALE OF ANY BIOFUELS, INCLUDING THROUGH THE USE OF SIGNAGE.

(d) SELLING BIOFUEL IN ANY SPECIFIED AREA ON THE MARKETING PREMISES OF THE FRANCHISEE, INCLUDING ANY AREA IN WHICH A NAME OR LOGO OF A FRANCHISOR OR ANY OTHER ENTITY APPEARS.

(e) PURCHASING BIOFUEL FROM SOURCES OTHER THAN THE FRANCHISOR IF THE FRANCHISOR DOES NOT OFFER ITS OWN BIOFUEL FOR SALE BY THE FRANCHISEE.

(f) LISTING BIOFUEL AVAILABILITY OR PRICES, INCLUDING ON SERVICE STATION SIGNS, FUEL DISPENSERS OR LIGHT POLES.

(g) ALLOWING PAYMENT FOR BIOFUELS WITH A CREDIT CARD.

Sec. 24. Repeal

Section 49-409, Arizona Revised Statutes, is repealed.

Sec. 25. Title 49, chapter 3, article 2, Arizona Revised Statutes, is amended by adding sections 49-447.01 and 49-447.02, to read:

49-447.01. Fuel standards; biofuel requirements; low carbon standards; rules

A. WHEN THE PRODUCTION OF BIODIESEL IN THIS STATE FROM SOURCES IN THIS STATE, CALIFORNIA, NEVADA, UTAH AND NEW MEXICO REACHES A LEVEL OF AT LEAST FIVE MILLION GALLONS ON AN ANNUALIZED BASIS FOR AT LEAST THREE MONTHS, THE DEPARTMENT SHALL NOTIFY ALL RETAIL AND WHOLESALE SELLERS OF FUEL IN THIS STATE THAT THREE MONTHS AFTER THE DATE OF THE NOTICE, A RETAIL OR WHOLESALE SELLER MAY NOT SELL OR OFFER FOR SALE DIESEL FUEL UNLESS THE DIESEL FUEL CONTAINS AT LEAST TWO PER CENT BIODIESEL BY VOLUME OR OTHER RENEWABLE DIESEL WITH AT LEAST TWO PER CENT RENEWABLE COMPONENT BY VOLUME.

1 B. WHEN THE PRODUCTION OF BIODIESEL IN THIS STATE FROM SOURCES IN THIS
2 STATE, CALIFORNIA, NEVADA, UTAH AND NEW MEXICO REACHES A LEVEL OF AT LEAST
3 FIFTEEN MILLION GALLONS ON AN ANNUALIZED BASIS FOR AT LEAST THREE MONTHS, THE
4 DEPARTMENT SHALL NOTIFY ALL RETAIL AND WHOLESALE SELLERS OF FUEL IN THIS
5 STATE THAT THREE MONTHS AFTER THE DATE OF THE NOTICE, A RETAIL OR WHOLESALE
6 SELLER MAY NOT SELL OR OFFER FOR SALE DIESEL FUEL UNLESS THE DIESEL FUEL
7 CONTAINS AT LEAST FIVE PER CENT BIODIESEL BY VOLUME OR OTHER RENEWABLE DIESEL
8 WITH AT LEAST FIVE PER CENT RENEWABLE COMPONENT BY VOLUME.

9 C. THE DEPARTMENT SHALL ADOPT BY RULE LOW CARBON STANDARDS FOR MOTOR
10 VEHICLE FUELS IN THIS STATE. RULES ADOPTED BY THE DEPARTMENT SHALL INCLUDE
11 THE FOLLOWING:

12 1. A REQUIREMENT THAT THE LOW CARBON FUEL STANDARD APPLY TO REFINERS
13 OF TRANSPORTATION FUELS.

14 2. A GOAL OF REDUCING THE CARBON INTENSITY OF TRANSPORTATION FUELS BY
15 TEN PER CENT BY 2020.

16 3. ESTABLISHMENT OF A MARKET BASED CARBON TRADING PROGRAM AS A METHOD
17 FOR REDUCING CARBON INTENSITY.

18 4. USE OF A LIFE CYCLE ANALYSIS IN DETERMINING THE CARBON INTENSITY OF
19 ANY FUEL.

20 49-447.02. Hydrofluorocarbon releases prohibited; civil
21 enforcement; outreach program

22 A. BEGINNING JANUARY 1, 2009, A PERSON SHALL NOT KNOWINGLY VENT OR
23 OTHERWISE RELEASE INTO THE ENVIRONMENT ANY VEHICLE REFRIGERANT IN VIOLATION
24 OF 40 CODE OF FEDERAL REGULATIONS 82.154 DURING REPAIR, RECONDITIONING OR
25 OTHERWISE. A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO CIVIL
26 ENFORCEMENT BY THE ATTORNEY GENERAL PURSUANT TO SECTIONS 49-460, 49-461,
27 49-462 AND 49-463.

28 B. THE DEPARTMENT SHALL ADOPT AND IMPLEMENT AN INDUSTRY OUTREACH
29 PROGRAM THAT IS DESIGNED TO INFORM BUSINESSES AND INDIVIDUALS OF THE
30 PROHIBITIONS AND PENALTIES PRESCRIBED BY THIS SECTION AND TO ENCOURAGE
31 COMPLIANCE WITH ITS PROVISIONS. THE DEPARTMENT SHALL NOT INSTITUTE
32 ENFORCEMENT ACTION AGAINST ANY BUSINESS OR INDIVIDUAL PURSUANT TO THIS
33 SECTION UNTIL AT LEAST ONE YEAR AFTER IMPLEMENTATION OF THE DEPARTMENT'S
34 INDUSTRY OUTREACH PROGRAM.

35 C. THE DEPARTMENT SHALL INCLUDE IN ITS ANNUAL REPORT A DESCRIPTION OF
36 ENFORCEMENT ACTIONS TAKEN PURSUANT TO THIS SECTION.